



Employer Mandate Delayed for Medium-sized Employers

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The Affordable Care Act (ACA) imposes a penalty on large employers that do not offer minimum essential coverage to full-time employees and their dependents. Large employers that offer this coverage may still be liable for a penalty if the coverage is unaffordable or does not provide minimum value. The ACA's employer mandate provision is often referred to as the "employer shared responsibility" or "pay or play" rules.

On Feb. 12, 2014, the U.S. Treasury Department published [final regulations](#) implementing the employer shared responsibility provisions of the ACA. The regulations took effect on Feb. 12, 2014.

Under the final regulations, **applicable large employers that have fewer than 100 full-time employees generally will have an additional year, until 2016, to comply with the pay or play rules.** Large employers with 100 or more full-time employees must comply with the pay or play rules starting in 2015.

Delay for Medium-sized Businesses

According to the Treasury, approximately 96 percent of employers are small businesses that have fewer than 50 workers and are exempt from the employer responsibility provisions. The employer shared responsibility provisions apply only to applicable large employers that have 50 or more full-time employees.

The final rules will delay implementation for medium-sized employers that are covered by the employer mandate. Applicable large employers that have fewer than 100 full-time employees will have an additional year, until 2016, to comply with the pay or play rules.

Thus, the employer shared responsibility provisions will generally apply to:

- Employers with **100 or more** full-time employees starting in **2015**; and
- Employers with **50-99** full-time employees starting in **2016**.

To qualify for this delay, an employer must meet the following three eligibility conditions:

1. The employer must employ a limited workforce of at least 50 full-time employees (including full-time equivalent employees, or FTEs) but fewer than 100 full-time employees (including FTEs) on business days during 2014;
2. During the period beginning on Feb. 9, 2014, and ending on Dec. 31, 2014, the employer may not reduce the size of its workforce or the overall hours of service of its employees in order to satisfy the workforce size condition; and

3. During the coverage maintenance period (that is, the period ending Dec. 31, 2015, or the last day of the plan year that begins in 2015), the employer may not eliminate or materially reduce the health coverage (including employer contribution), if any, it offered as of Feb. 9, 2014.

Employers that change their plan years after Feb. 9, 2014, to begin on a later calendar date are not eligible for the delay.

In addition, the employer must provide an **appropriate certification** stating that it meets all of the eligibility requirements. The forthcoming section 6056 employer reporting final regulations are expected to provide that an applicable large employer that otherwise qualifies for this delay will provide this certification as part of the transmittal form it is required to file with the IRS under the section 6056 employer reporting regulations.

This Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.