

Affordable Care Act Implementation Employer Mandate Penalties

How many full-time¹ employees do you have?

If ≥ 50

Business is subject to ACA

If < 50

ACA looks to part-time employees to determine full-time employee equivalents².

If total full-time and full-time equivalent employees ≥ 50

Business is subject to ACA employer mandate penalty and coverage provisions

If total full-time and full-time equivalent employees < 50

Business is exempt from ACA employer mandate penalty and coverage provisions

Separate businesses under common control are considered one business if determined so by IRS rules

Rules may vary by structure (e.g. corporation or partnership) of business. Generally requires 80% control to be considered common control.

Key considerations: How many employees do you have? ACA applicability might be a consideration in determining future hiring decisions in advance of the January 1, 2014 effective date for employer mandate penalties.

- 1) Defined as 30 hours per week on average
- 2) Total part-time hours in one month divided by 120 equals full-time employee equivalents (FTEEs). Important – you cannot be penalized for FTEEs: it is only relevant to applicability.

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What are the employer mandate penalties?

Applicable employers³ can be penalized for :

Failing to offer coverage to full-time employees

Offering coverage to full-time employees where the cost of the coverage exceeds 9.5% of family income⁴

The penalty for the failure to offer coverage is \$2,000 x full-time employees not covered, minus the first 30 employees, i.e. your first 30 full time employees are exempt from the calculation.

The penalty for the failure to offer “affordable” coverage is the lesser of two penalty calculations: \$3,000 per applicable employee or \$2,000 times every full-time employee, minus the first 30 employees.

At least one employee must receive subsidized coverage in the exchange to trigger penalties.

NRF maintains a Health Mandate Cost Calculator at www.retailmeansjobs.com/healthcare which can model the penalty effect on your business.

Key considerations: What is your mix of full and part-time employees? Could an adjustment of employee status reduce your penalty exposure? If you provide coverage today, how does the cost of that coverage compare to your total penalty exposure? Consider all options, including non-monetary concerns.

3) Equal to or more than 50 full-time employees or full-time employee equivalents.

4) “Family income” is difficult if not illegal for employers to know. One possible safe harbor may be to consider the employee’s W-2 wages as a proxy for family income.

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Note that the ACA will make substantial changes to coverage through the essential health benefits benchmarks in the new health insurance exchanges and outside market and through additional market mandates and minimum value calculations for self-funded plans. Coverage costs are likely to increase for most employers.

Nevertheless, there is a longstanding relationship between employment and health coverage and employee and public relations to consider. NRF encourages the Retail Industry to carefully consider all their ACA-related options and to consult with us as needed.