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Employer Shared Responsibility

WHAT IS EMPLOYER SHARED RESPONSIBILITY?

Starting January 1, 2014, large employers (those with 50 or more full-time equivalent employees) will be subject to the Employer Shared Responsibility provision under the Affordable Care Act. Proposed regulations have been issued by the Internal Revenue Service. This provision requires that all large employers who offer health insurance coverage to their full-time employees and dependents provide coverage that meets the following requirements:

- **Affordability:** The individual's contribution to the plan's premium for “self-only” coverage cannot exceed 9.5 percent of household income.
- **Minimum value coverage:** The plan pays 60 percent or more, on average, of total allowed costs of benefits provided under a group health plan or health insurance plan.
- **Coverage for substantially all full-time equivalent active employees:** “Substantially all” has been defined as 95 percent or more of full-time equivalent (FTE) employees in 2014. In 2015, coverage must be offered to employees and dependents (children).

If the coverage offered does not meet all these requirements, or if the employer chooses not to offer any health insurance coverage, they may be subject to penalties.

HOW IS A “LARGE EMPLOYER” DEFINED?

A **large employer** is defined as employing 50 or more full-time equivalent (FTE) employees. In general terms, a full-time employee is defined as someone who averages at least 30 hours of work per week. Part-time and seasonal employees are taken into account when calculating the number of FTE employees.

For more detailed rules and information on the large employer calculation and calculating FTEs (full-time, part-time, and seasonal workers), see the Federal Register article on [Shared Responsibility for Employers Regarding Health Coverage](#).

Affordable Care Act Implementation Alert

The Affordable Care Act and your self-funded health plan

WHAT ARE THE PENALTIES?

Penalties may apply to large employers who do not offer health insurance or whose plans do not meet the minimum criteria outlined above.

The penalties include the following:

- If a large employer does not offer health coverage or offers coverage to less than 95 percent of its full-time employees (and their dependents), and has at least one full-time employee who receives a premium tax credit to help purchase health coverage on the Exchange, the employer will be subject to a penalty of \$2,000 multiplied by the total number of full-time employees, minus 30 employees.
- If a large employer offers coverage to at least 95 percent of its full-time employees but at least one full-time employee receives a premium tax credit to help purchase health coverage on the Exchange, the employer will be subject to a \$3,000 per employee penalty. The \$3,000 penalty applies only to the number of employees who obtain a subsidy. This penalty may occur if the employer did not offer coverage to that employee or the coverage that was offered to the employee was either unaffordable or did not provide minimum value.

HOW CAN INDEPENDENCE ADMINISTRATORS HELP YOU?

Independence Administrators offers a health care reform tax penalty consultation service that will analyze your existing plan(s) against the Employer Shared Responsibility requirements. Please contact your Independence Administrators' account executive, your broker, or your benefit consultant for additional information.

Health care reform is complicated. Please use Independence Administrators as a resource.

REFERENCE

For more information, you can view the entire current proposed rule on [Employer Shared Responsibility](#) in the Federal Register.

Independence Administrators does not provide legal and/or tax advice in connection with the consultation. The consultation is provided only to assist the employer in gathering information in order to be able to make its determination of whether the employer meets the shared responsibility requirements under the Affordable Care Act. The final determination of whether the employer meets the requirements will need to be made by the employer in consultation with the employer's own legal counsel and tax advisor.

