

EMPLOYER MANDATE DELAYED UNTIL 2016 FOR COMPANIES WITH FEWER THAN 100 FULL-TIME EMPLOYEES

Employer Coverage Requirements Remain Effective for Employers with 100 or More Full-Time Employees, as of Plan Years on or after January 1, 2015. However, as a **NEW** Transition Rule, these Large Employers Must Offer Coverage to **70%, rather than 95%** of Full-Time Employees, to Avoid Penalty Exposure in 2015.

TAKEAWAYS

- On February 10, 2014, the employer mandate “shared responsibility” requirements of the Affordable Care Act (ACA) were **DELAYED** until 2016, if employing **50 to 99 full-time** employees. Full-time is defined as working, on average, **30 hours/week**; 130 hours/month.
- Employers with **fewer than 50** full-time employees remain exempt from the ACA requirements to offer qualified, affordable coverage to full-time employees, or face penalties.
- This delay follows a similar one year delay for all plans, regardless of employer size, announced in July, 2013. The requirement that all Americans have qualified coverage by **March 31, 2014**, or pay penalties in 2014, remains in effect.

The delay will affect approximately 50 percent of businesses that were to comply with the coverage mandate in 2015, according to administration officials

DETAILS

See pages 2-3 for additional clarifications within the February 10, 2014 regulatory guidance

- Employers with 100 or more full-time employees will not face penalties in 2015, if coverage is offered to **substantially all full-time employees**. “Substantially all” is now defined as **70%**, rather than **95%** of full-time employees, in 2015. **This lower threshold is only applicable in 2015.**
- Employers with 50 or more full-time employees will need to offer qualified coverage to substantially all full-time employees, defined as **95%** of full-time employees, **in 2016.**
- The definition of dependent under the ACA continues to **exclude spouses**. The definition of dependent has been revised to now **exclude stepchildren** and **foster children**.

NEXT STEPS

- As a reminder, tune into our webinar series, **Where the Rubber Meets the Road**, providing action steps within the ACA implementation timeline.

Employer Coverage Requirements Remain Effective for Employers with 100 or More Full-Time Employees, as of Plan Years on or after January 1, 2015

TRACKING EMPLOYEE HOURS FOR PURPOSES OF QUALIFYING FOR COVERAGE (FULL-TIME: WORKING, ON AVERAGE, 30 HOURS/WEEK: 130 HOURS/MONTH)

- Employers with **part-time, variable hour and “off schedule” employees** may continue to use a six month “look back” period to assess full-time employment (130 hours per month). A “look back” of three months is also an option for tracking hours; however, this adds additional administration steps.
- Following the **“look back”** measurement period for hourly employees, employers will determine which hourly employees must be offered coverage, as of plan years on or after January 1, 2015 (if employing 100 or more full-time employees); or as of plan years on or after January 1, 2016 (if employing 50 or more full-time employees).

FULL-TIME EMPLOYMENT STATUS DETERMINATIONS: SPECIFIC SITUATIONS

- **Teachers** and other education employees may be considered full-time employees based on a school year, rather than a calendar year schedule.
- **Adjunct faculty** may be credited with 2¼ hours of service per week for each hour of classroom teaching.
- **Volunteer workers** for tax-exempt entities are not considered full-time employees, e.g., volunteer firefighters.

Seasonal employees working six months or less are not considered full-time employees; this includes employment during holidays seasons

NEWLY INCORPORATED BUSINESSES

- Employers of newly incorporated businesses should assess if subject to the employer mandate coverage provisions of the ACA based on average number of employees **reasonably expected** to be employed during the year of incorporation.

SECTION 125 LIFE STATUS EVENTS: INDIVIDUAL MANDATE & COVERAGE OPTIONS

- In 2014, employer plans are permitted to consider individual health coverage availability in the new health insurance exchanges, as of January 1, 2014, as an allowable Section 125 life status event. This transitional regulation is **NOT** extended to 2015.



DETERMINING IF EMPLOYING MORE THAN 100 FULL-TIME EMPLOYEES

- Under these revised regulations, issued February 10, 2014, implementation details were issued for employers with fewer than 100 full-time employees, yet employing a substantial number of part-time employees. This specific calculation for qualifying for the employer shared responsibility requirements, as of plan years on or after January 1, 2015, is known as **full-time equivalency**.
- Please reach out to your Oswald representative if subject to this important determination. Calculations, timelines and grace assessment (i.e., ability to lessen applicable penalty calculation by 80 employees, as of 02.10.14) in calculating potential penalty exposure, as important strategic considerations.
- Tune into Oswald's webinar series, **Where the Rubber Meets the Road**, for additional strategic advice and implementation action items.

NEXT STEPS

- **STAY TUNED:** We anticipate implementation delays and modifications will continue, as the new market stabilizes in this time of unprecedented change. Oswald Companies will provide timely updates and concise information. Please reach out to us with any questions.

2014 Oswald Companies | Health Care Reform Implementation Review
Andrea Esselstein, J.D. | aesselstein@oswaldcompanies.com; 216.658.5012
Luke Clark, Sr Benefits Consultant | lclark@oswaldcompanies.com; 216.367.8758

Disclaimer: Materials are solely for informational purposes as an educational resource. Please contact counsel to obtain advice with respect to any specific issue.