



# Health Care Reform

## LEGISLATIVE BRIEF

Brought to you by Triangle Insurance & Benefits

## Employer Mandate Delayed Until 2016 for Medium-sized Employers

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

On Feb. 10, 2014, the Internal Revenue Service (IRS) released [final regulations](#) implementing the ACA’s employer shared responsibility rules. The regulations took effect on Feb. 12, 2014. Under the final regulations:

- ▮ **ALEs that have fewer than 100 full-time employees (including full-time equivalent employees, or FTEs) generally will have an additional year, until 2016, to comply with the pay or play rules.**
- ▮ ALEs with 100 or more full-time employees (including FTEs) must comply with the pay or play rules starting in 2015.

### DELAY FOR MEDIUM-SIZED BUSINESSES

According to the Treasury, nearly 96 percent of employers are small businesses that have fewer than 50 full-time employees (including FTEs) and are exempt from the employer shared responsibility rules. The employer shared responsibility rules apply only to employers that have 50 or more full-time employees (including FTEs).

The final rules **delay implementation for medium-sized ALEs**. This means that ALEs that have fewer than 100 full-time employees (including FTEs) will have an additional year, until 2016, to comply. Thus, the employer mandate will generally apply to:

- ▮ ALEs with **100 or more full-time employees (including FTEs)** starting in 2015; and
- ▮ ALEs with **50-99 full-time employees (including FTEs)** starting in 2016.

This delay applies for all calendar months of 2015 plus any calendar months of 2016 that fall within the 2015 plan year. However, **ALEs that change their plan year after Feb. 9, 2014, to begin on a later calendar date are not eligible for the delay.**

### ELIGIBILITY CONDITIONS

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

#### **1. Limited Workforce**

The employer must employ a limited workforce of at least 50 full-time employees (including FTEs) but fewer than 100 full-time employees (including FTEs) on business days during 2014. For this purpose, an ALE’s number of full-time employees (including FTEs) is determined according to the rules that otherwise apply for determining ALE status.

#### **2. Maintenance of Workforce and Aggregate Hours of Service**

During the period beginning on Feb. 9, 2014, and ending on Dec. 31, 2014, the employer may not reduce its workforce size or overall hours of service of its employees in order to satisfy the limited workforce size condition. A

# Employer Mandate Delayed Until 2016 for Medium-sized Employers

---

reduction in workforce size or overall hours of service for bona fide business reasons will not be considered to have been made in order to satisfy the workforce size condition.

Bona fide business reasons for reductions of workforce size or overall hours of service include the following business activities:

- [ The sale of a division;
- [ Changes in the economic marketplace in which the employer operates;
- [ Terminations of employment for poor performance; or
- [ Other similar changes unrelated to eligibility for the delay.

### **3. Maintenance of Previously Offered Health Coverage**

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, if any, it offered as of Feb. 9, 2014.

An employer will not be treated as eliminating or materially reducing health coverage if:

- [ It continues to offer each employee who is eligible for coverage during the coverage maintenance period an employer contribution toward the cost of employee-only coverage that either:
  - o Is at least 95 percent of the contribution that the employer offered on Feb. 9, 2014; or
  - o Is the same (or a higher) percentage of the cost of coverage that the employer was offering to contribute on Feb. 9, 2014;
- [ In the event there is a change in benefits under the employee-only coverage offered, that coverage provides minimum value after the change; and
- [ The employer does not alter the terms of its group health plans to narrow or reduce the class or classes of employees (or the employees' dependents) to whom coverage was offered on Feb. 9, 2014.

For example, a cost increase for an employee will not be treated as an elimination or material reduction of health coverage if, on Feb. 9, 2014:

- [ The employer was contributing \$300 per month for coverage that costs \$400 per month for employee-only coverage; and
- [ The employer continues to offer to contribute \$300 per month after the cost of employee-only coverage increases to \$425 per month for the plan year beginning on July 1, 2014.

An ALE with a non-calendar year plan that meets the coverage maintenance period requirements for 2015 may be eligible for the delay even if the ALE does not meet the coverage maintenance period requirements later (during the portion of the 2015 plan year falling in 2016).

### **CERTIFICATION**

An ALE must also certify that it meets the three eligibility conditions. This certification will be made as part of the transmittal form the ALE is required to file with the IRS under the Section 6056 reporting requirements. Under the [Section 6056 employer reporting final rules](#), **ALEs eligible for this transition relief will still report under Section 6056 for 2015.**

---

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.

Design © 2014 Zywave, Inc. All rights reserved.

7/14; BK 6-15

# Employer Mandate Delayed Until 2016 for Medium-sized Employers

---

As part of this transition relief, the ALE must certify on its Section 6056 transmittal form ([Form 1094-C](#)) for calendar year 2015 (that is, for the Section 6056 transmittal form that will be filed in 2016) that it meets the following eligibility conditions:

1. The ALE employs a limited workforce of at least 50 full-time employees (including full-time equivalents), but fewer than 100 full-time employees (including full-time equivalents) on business days during 2014;
2. Between Feb. 9, 2014, and Dec. 31, 2014, the ALE does 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 ALE does not eliminate or materially reduce the health coverage, if any, it offered as of Feb. 9, 2014.

ALEs with non-calendar year plans will also certify with regard to:

1. Their 2015 plan year, including the months of their 2015 plan year that fall in calendar year 2015, on the Section 6056 transmittal form for 2015 (that is, the form that will be filed in 2016); and
2. The months of their 2015 plan year that fall in calendar year 2016 on the Section 6056 transmittal form for 2016 (that is, the form that will be filed in 2017).

Further information on this certification is available in the [instructions](#) for the Section 6056 transmittal form.

*Source: U.S. Treasury Department*

---

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.

Design © 2014 Zywave, Inc. All rights reserved.

7/14; BK 6-15