

LABOR & EMPLOYMENT LAW LEGAL ALERT

Final Regulations for Employer Mandate Provisions of the Affordable Care Act Published

Final regulations provide interim relief for many businesses facing new compliance obligations under the ACA.

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Over one year after the publication of proposed regulations, on Monday the Treasury Department and the Internal Revenue Service issued final regulations for the employer mandate provisions of the Patient Protection and Affordable Care Act (“ACA”).

Employer Mandate

The “employer mandate” or “employer shared responsibility provision” is the portion of the ACA that requires “employers who employed at least 50 full-time employees, including full-time equivalent employees, on business days during the preceding calendar year” to offer affordable and adequate health insurance to all full-time employees. The employer mandate was set to go into effect January 1, 2014 with applicable employers who failed to meet the employer mandate requirements subject to monthly penalties as of the implementation date.

Interim Employer Mandate Relief

The implementation date for the ACA’s employer mandate was previously delayed to January 1, 2015. In certain instances, the final regulations provide for even greater implementation delays. Businesses that employ between 50 and 99 full-time workers (including full-time equivalents) have until 2016 to comply with the employer mandate. For employers with 100 or more full-time employees (including full-time equivalents), the employer mandate compliance threshold was lowered from requiring applicable employers to offer insurance to 95 percent of their full-time employees in 2015 to 70 percent in 2015, with the 95 percent threshold phased in beginning in 2016.

Categorization of Employees

The proposed regulations had left many employers questioning how to count non-traditional employees for purposes of the employer mandate. The final regulations provide a number of clarifications to the general standard of counting all “employees,” based on the common law definition, including how to count volunteers, educational employees and seasonal employees when determining if an employer has 50 or more full-time employees for ACA compliance purposes.

2015 Specific Provisions

In addition to the interim relief noted earlier, many of the transition rules that applied to 2014 under the proposed regulations have been extended to 2015 under the final regulations, including:

- Option to look back to a period of six consecutive months in 2014, instead of the full calendar

year, in order to determine 2015 compliance obligations.

- Compliance obligations for employers with plan years that do not start on January 1 begin at the start of their plan years in 2015 rather than on January 1, 2015.
- Requirement to offer coverage to full-time employees' dependents will not apply in 2015 to employers that are taking steps to arrange for such coverage to begin in 2016.
- Special measurement period and stability periods for variable hour employees allowed in 2015.

Upcoming Seminar to Learn More

The employer mandate final regulations represent the latest, and an extremely important, step in this developing area of the law. In order to assist you in understanding how these regulations may affect your business, Smith Haughey Rice & Roegge will be putting on another free ACA seminar in late April 2014 focused on the employer mandate. Should you have any questions about the final regulations, please do not hesitate to contact Kate E. Flewelling, Janis L. Adams, or any member of Smith Haughey Rice & Roegge's Labor and Employment practice group.



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