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# Employer Mandate Penalties Delayed Until 2015

The Obama Administration has postponed the Affordable Care Act (ACA) large employer mandate penalties for one year, until 2015. The Department of the Treasury announced the delay on July 2, 2013, along with a similar delay for information reporting by large employers, health insurance issuers and self-funded plan sponsors. On July 9, 2013, the Internal Revenue Service (IRS) issued Notice 2013-45 to provide more formal guidance on the delay.

The delay does not affect any other provision of the ACA, including individuals' access to premium tax credits for coverage through an Exchange.

## ONE-YEAR IMPLEMENTATION DELAY

ACA's employer mandate provisions are also known as the employer shared responsibility or pay or play rules. These rules impose penalties on large employers that do not offer affordable, minimum value coverage to their full-time employees and dependents. For purposes of these rules, a large employer is one that employs on average at least 50 full-time employees (including full-time equivalents) on business days during the preceding calendar year. These rules were set to take effect on Jan. 1, 2014.

According to the Treasury, the delay of the employer mandate penalties was required because of issues related to the reporting requirements. With the reporting rules delayed, it would be nearly impossible to determine which employers owed penalties under the shared responsibility provisions. **Therefore, these payments will not apply for 2014**.

The delayed reporting requirements are found in Internal Revenue Code sections 6055 and 6056. These rules apply to insurers, self-insuring employers and other parties that provide health coverage, along with certain large employers with respect to health coverage offered to their full-time employees. The Administration's decision is based on concerns about the complexity of the requirements and the need for more time to implement them effectively.

## EFFECTS OF THE DELAY

The additional year will give employers time to understand the employer mandate rules, to make decisions about providing health coverage and to adapt their reporting systems, without worrying about potentially significant penalties. It is unclear how the new deadline will impact guidance that has already been issued, such as the transition relief for non-calendar year plans and the optional safe harbor for determining full-time status.

## FUTURE GUIDANCE

The administration plans to use the additional implementation time to consider ways to simplify the new reporting requirements consistent with ACA. The Treasury also plans to discuss the rules with stakeholders, including employers that currently provide health coverage to employees, and then publish proposed rules implementing these provisions later this summer. It is the Treasury's intention to minimize the reporting requirements.

The pay or play regulations issued earlier this year left many unanswered questions for employers. The IRS highlighted several areas where it would be issuing more guidance. Presumably, the additional time will give the IRS and Treasury the opportunity to provide more comprehensive guidance on implementing these requirements.

We will continue to monitor developments and will keep you informed of the latest updates.



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