CribSheet 12-7
7/13/12

PPACA: Employer Mandate Penalty Calculations

Beginning in 2014, the Patient Protection and Affordable Care Act (PPACA) imposes an employer mandate penalty on certain employers who do not provide health insurance coverage and, in some cases, on employers who do provide coverage. This sheet explains the calculations.

Penalties only apply to businesses with 50 or more full-timers or FTEs.

The penalty only applies to a business that meets two conditions. The employer mandate penalty only applies to a business with 50 or more full-time employees (FTs) or full-time equivalents (FTEs). An FT is one working 120 or more hours per month. Each 120 hours per month of part-time labor counts as an FTE.

Penalties only apply to businesses with one or more subsidized employees.

The employer mandate penalty only applies to a business if one or more of its employees receive premium credits (government subsidies) to help purchase health insurance in the exchange. If no employees receive subsidies, the business owes no penalty.

Subsidies are only for employees with household incomes less than 400% of the federal poverty level.

An employee ONLY receives a premium subsidy if he meets two conditions. To be eligible for a subsidy, the employee's household income must be less than 400% of the Federal Poverty Level (FPL), which varies with family size. For a family of four (except in Alaska and Hawaii), 400% FPL for 2012 = $92,200. Household income includes both wage and investment income of all household members.

Subsidies are only for employees whose premiums cost more than 9.5% of household income.

To be eligible for a subsidy, the employee's portion of the insurance premium on the employer's plan must exceed 9.5% of the employee's household income. Again, this income includes wage and investment income of the employee, spouse, dependent children, etc. To receive the subsidy, the employee must opt to leave the employer's plan and purchase insurance in the individual exchange.

These are the penalties for a business that does NOT provide health insurance.

If a business DOES owe an employer mandate penalty, the calculations are as follows: If the business DOESN'T provide health insurance, its annual penalty equals {the total number of employees in the firm (subsidized and unsubsidized) minus 30} x {$2,000}. In the table below, in [S3] and [S4], the 50-employee firm owes $40,000 = (50-30) x $2,000.

These are the penalties for a business that DOES provide health insurance.

If the business DOES provide health insurance, its annual penalties equal THE LESSER OF {the number of subsidized employees} x {$3,000} OR {the number of employees in the firm (subsidized and unsubsidized) minus 30} x $2,000. In [S4], it pays $6,000 (the lesser of $6,000 and $40,000). In [S6], it pays $42,000 (the lesser of $75,000 and $42,000).

The rules are complex, so consult an accountant.

The employer mandate rules are complex. Businesses should consult with their accountants. Importantly, the mandate may apply to multiple businesses with a common owner. So for example, an individual owning three businesses with, say, 15, 20, and 25 employees may be treated as a single business with 60 employees.

Please see Page 2 for **Observations from nine scenarios**.

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Observations from nine scenarios:

The table below shows employment data for nine hypothetical businesses.

Scenarios	#1	#2	#3	#4	#5	#6	#7	#8	#9
Total number of employees	49	50	50	50	51	51	52	51	31
Number of unsubsidized employees	48	50	49	48	50	26	27	25	6
Number of subsidized employees	1	0	1	2	1	25	25	26	25
Number of full-time equivalents (part-time hours in a month divided by 120)	0	0	0	0	0	0	0	0	20
Penalty for a business that DOES provide health insurance	$0	$0	$3,000	$6,000	$3,000	$42,000	$44,000	$42,000	$2,000
Penalty for a business that DOES NOT provide health insurance	$0	$0	$40,000	$40,000	$42,000	$42,000	$44,000	$42,000	$2,000

#1: Unless the business has 50 or more full-time employees or FTEs, there are no penalties. ($0 with 49 employees, 1 of whom is subsidized)

#2: Unless the business has at least 1 subsidized employee, there are no penalties. ($0 with 50 employees, none of whom are subsidized)

#3 vs. #5: The mandate penalizes a non-providing firm $2,000 for creating an additional job. ($40K→$42K)

#3 vs. #4: The mandate DOES NOT penalize a non-providing firm for having more subsidized employees . ($40K in both cases)

#3 vs. #4: The mandate penalizes a providing firm with few subsidized employees $3,000 for each additional subsidized employee. ($3K→$6K)

#3 vs. #5: The mandate DOES NOT penalize a providing firm with few subsidized employees for creating an additional job – as long as the new employee is not subsidized. ($3K in both cases)

#6 vs. #7 vs. #8: A providing firm with many subsidized employees pays the same penalty as a non-providing firm of the same size.

#6 vs. #7: For a providing firm with many subsidized employees, the mandate penalizes the firm $2,000 for creating an additional job. ($42K→$44K)

#6 vs. #8: For a providing firm with many subsidized employees, the employer mandate DOES NOT penalize the firm for having more subsidized employees. ($42K in both cases)

#6 vs. #9: A firm can reduce its penalties tremendously by replacing full-time employees with part-timers. ($44K vs. $2K)

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