

# Employer Shared Responsibility (Pay or Play)

Beginning in 2014, employers that employ an average of at least 50 full-time (30 hours per week or more) or full-time equivalent employees must offer minimum essential coverage to its employees or may be subject to a penalty.

If an employer meets the requirements of a large employer, you may be subject to a penalty if you do not offer coverage or the coverage you offer is not considered affordable.

Penalty is triggered if an employee applies for coverage through the health insurance exchange AND receives a subsidy.

Penalty:

**1-NO Coverage offered** or offered to less than 95% of the employees - \$2,000 penalty per full time employee, the first 30 FTE are excluded from the fee, penalty is not a business expense write off.

**No Coverage Penalty Calculation:**  $(\text{Number of FTE} - 30) \times \$2,000 = \text{total penalty}$ .

Employer 1 has 125 FTE working 40 hours a week and does not offer coverage. Penalty would be \$190,000.00  $(125-30) = 95 \text{ FTE} \times \$2,000 \text{ penalty} = \$190,000.00$ .

Employer 2 had 35 FTE working 32 hours a week and does not offer coverage. Penalty would be \$10,000.  $(35 - 30) = 5 \text{ FTE} \times \$2,000 = \$10,000$ .

**2-Coverage is offered** but is **not affordable** &/or **does not meet minimum value**: penalty is the *lesser* of \$2,000 per FTE or \$3,000 per number of subsidized FTE.

Penalty is triggered if 1 FTE is getting a **SUBSIDY** through the exchange.

Coverage is deemed affordable (IRS Safe harbor rule) if the employee only cost of the premium does not exceed 9.5% of the employees' W2 wages.

**Penalty Calculation** – coverage offered:

Employer 1 has 125 FTE working 40 hours per week; 50 of those employees get a subsidy, 2 step calculation.

- a.  $125 \text{ FTE} - 30 = 95 \text{ FTE} \times \$2,000 = \$190,000 \text{ penalty}$
- b.  $50 \text{ subsidize FTE} \times \$3,000 = \$150,000 \text{ penalty}$

Employer would pay the \$150,000 penalty for not having affordable coverage or for not meeting the minimum value.

If an employer offers coverage and the coverage is deemed affordable and the plan meets minimum value requirements, the employer **WILL NOT** be charged a penalty if an employee does not take the offered coverage.

Individuals who have access to coverage through their employer and that coverage is deemed affordable and meets the minimum value requirements, **WILL NOT** be eligible for a subsidy.

Penalties are only applied against Full Time Employees (FTE), those working 30+ hours a week.

Part Time Employees (PTE) only come into play when determining if an employer is a Large Employer (50 or more FTE / FTEE).

Employers who offer coverage must provide / offer to full time employees, which are those working 30 or more hours a week.

Employer is not required to make any premium contribution to an employee's dependents or towards their spouse premium, it is noted that a spouse is not considered a dependent.

Maximum waiting period for a new hire is 90 days. Plans that say the first of the month following 90 days will need to be amended.