

U.S. DEPARTMENT OF THE TREASURY

Press Center

Treasury and IRS Issue Final Regulations Implementing Employer Shared Responsibility Under the Affordable Care Act for 2015

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***Employer responsibility provisions begin in 2015; future rules will simplify reporting for businesses***

WASHINGTON - Today, the U.S. Department of the Treasury and the Internal Revenue Service (IRS) issued final regulations implementing the employer responsibility provisions under the Affordable Care Act (ACA) that take effect in 2015. In addition, final regulations will be issued shortly that aim to substantially streamline employer reporting requirements for employers that offer highly affordable coverage to all or virtually all of their full-time employees. The employer responsibility rules assist employers affected by these policies in providing quality, affordable coverage to their workers. If employers decide not to offer insurance to their employees, they will make an employer shared responsibility payment beginning in 2015 to help offset the costs to taxpayers of their employees getting tax credits through the Health Insurance Marketplace.

"While about 96 percent of employers are not subject to the employer responsibility provision, for those employers that are, we will continue to make the compliance process simpler and easier to navigate," said Assistant Secretary for Tax Policy Mark J. Mazur. "Today's final regulations phase in the standards to ensure that larger employers either offer quality, affordable coverage or make an employer responsibility payment starting in 2015 to help offset the cost to taxpayers of coverage or subsidies to their employees."

The final rules issued today implement the employer shared responsibility provisions of the ACA, under section 4980H of the Internal Revenue Code. The rules make a number of commonsense improvements in response to input on the proposed regulations issued in December 2012.

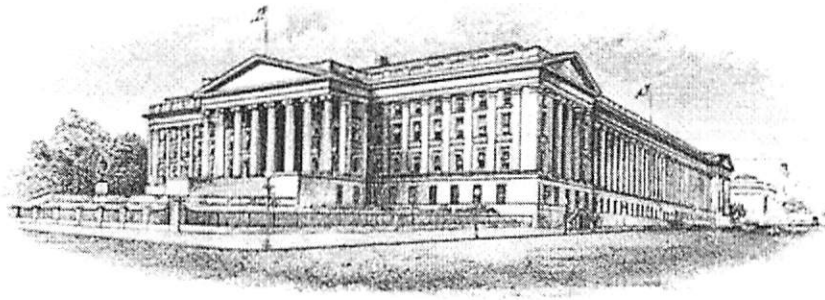
Highlights of today's rules include addressing a number of questions about how plans can comply with the employer shared responsibility provisions; ensuring that volunteers such as firefighters and emergency responders do not count as full-time employees; and phasing in provisions for businesses with 50 to 99 full-time employees and those that offer coverage to most but not yet all of their full-time workers.

How the policy affects employers:

- **Small Businesses with fewer than 50 employees (about 96% of all employers):** Under the Affordable Care Act, companies that have fewer than 50 employees are not required to provide coverage or fill out any forms in 2015, or in any year, under the Affordable Care Act.
- **Larger employers with 100 or more employees (about 2% of employers):** The overwhelming majority of these companies with 100 or more employees already offer quality coverage. Today's rules phase in the percentage of full-time workers that employers need to offer coverage to from 70 percent in 2015 to 95 percent in 2016 and beyond. Employers in this category that do not meet these standards will make an employer responsibility payment for 2015.
- **Employers with 50 to 99 employees (about 2% of employers):** Companies with 50-99 employees that do not yet provide quality, affordable health insurance to their full-time workers will report on their workers and coverage in 2015, but have until 2016 before any employer responsibility payments could apply.

For more information, see the fact sheet [here](#) and the final rule [here](#).

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## U.S. TREASURY DEPARTMENT

### FACT SHEET

#### *Final Regulations Implementing Employer Shared Responsibility Under the Affordable Care Act (ACA) for 2015*

#### **Provisions to Assist Smaller Businesses and Businesses that Offer Most but Not All Employees Coverage in 2015**

Approximately 96 percent of employers are small businesses and have fewer than 50 workers and are exempt from the employer responsibility provisions. To ensure a gradual phase-in and assist the employers to whom the policy does apply, the final rules provide, for 2015, that:

- The employer responsibility provision will generally apply to larger firms with 100 or more full-time employees starting in 2015 and employers with 50 or more full-time employees starting in 2016.
- To avoid a payment for failing to offer health coverage, employers need to offer coverage to 70 percent of their full-time employees in 2015 and 95 percent in 2016 and beyond, helping employers that, for example, may offer coverage to employees with 35 or more hours, but not yet to that fraction of their employees who work 30 to 34 hours.

#### **Various Employee Categories**

- The final regulations provide clarifications – many of which are based on comments on the proposed regulations – regarding whether employees of certain types or in certain occupations are considered full-time, including:
  - Volunteers: Hours contributed by bona fide volunteers for a government or tax-exempt entity, such as volunteer firefighters and emergency responders, will not cause them to be considered full-time employees.
  - Educational employees: Teachers and other educational employees will not be treated as part-time for the year simply because their school is closed or operating on a limited schedule during the summer.

- Seasonal employees: Those in positions for which the customary annual employment is six months or less generally will not be considered full-time employees.
- Student work-study programs: Service performed by students under federal or state-sponsored work-study programs will not be counted in determining whether they are full-time employees.
- Adjunct faculty: Based on the comments we received, the final regulations provide as a general rule that, until further guidance is issued, employers of adjunct faculty are to use a method of crediting hours of service for those employees that is reasonable in the circumstances and consistent with the employer responsibility provisions. However, to accommodate the need for predictability and ease of administration and consistent with the request for a “bright line” approach suggested in a number of the comments, the final regulations expressly allow crediting an adjunct faculty member with 2 ¼ hours of service per week for each hour of teaching or classroom time as a reasonable method for this purpose.

**Provisions to Assist Businesses to Comply in 2015**

To provide a gradual phase-in of the employer responsibility provisions and assist employers in complying and providing coverage, the final rules provide transition relief for 2015.

- While the employer responsibility provisions will generally apply starting in 2015, they will not apply until 2016 to employers with at least 50 but fewer than 100 full-time employees if the employer provides an appropriate certification described in the rules.
- Employers that are subject to the employer responsibility provisions in 2015 must offer coverage to at least 70 percent of full-time employees as one of the conditions for avoiding an assessable payment, rather than 95 percent which will begin in 2016.

**Full-Time Employee Status Determinations**

- Like the December 2012 proposed regulations, the final rules allow employers to use an optional look-back measurement method to make it easier to determine whether employees with varying hours and seasonal employees are full-time.
- Responding to comments, the final regulations also clarify the application of this method and the alternative monthly method of determining full-time status.

**Affordability Safe Harbors**

- Like the proposed regulations, the final rules provide safe harbors that make it easy for employers to determine whether the coverage they offer is affordable to employees.
- These safe harbors permit employers to use the wages they pay, their employees’ hourly rates, or the federal poverty level in determining whether employer coverage is affordable under the ACA.

### **Other Specific 2015 Provisions**

- In addition to the two forms of 2015 transition relief noted earlier, a package of limited transition rules that applied to 2014 under the proposed regulations is extended to 2015 under the final regulations, including:
  - Employers first subject to shared responsibility provision: Employers can determine whether they had at least 100 full-time or full-time equivalent employees in the previous year by reference to a period of at least six consecutive months, instead of a full year. This will help facilitate compliance for employers that are subject to the employer shared responsibility provision for the first time.
  - Non-calendar year plans: Employers with plan years that do not start on January 1 will be able to begin compliance with employer responsibility at the start of their plan years in 2015 rather than on January 1, 2015, and the conditions for this relief are expanded to include more plan sponsors.
  - Dependent coverage: The policy that employers offer coverage to their full-time employees' dependents will not apply in 2015 to employers that are taking steps to arrange for such coverage to begin in 2016.
  - On a one-time basis, in 2014 preparing for 2015, plans may use a measurement period of six months even with respect to a stability period – the time during which an employee with variable hours must be offered coverage – of up to 12 months.
  - As these limited transition rules take effect, we will consider whether it is necessary to further extend any of them beyond 2015.

### **Next Steps: Final Rules Simplifying Employer Information Reporting**

Many comments on the proposed employer information reporting regulations have urged that final rules provide streamlined ways to comply with employer information reporting -- especially for employers that offer highly affordable coverage to all or virtually all of their full-time employees. Others have asked for a single form for employer and insurer reporting provisions when possible. Treasury and the IRS will issue final regulations shortly that aim to substantially simplify and streamline the employer reporting requirements.

For the final employer shared responsibility regulations, click [\*here\*](#).

For more information on determining whether an employer is subject to the employer shared responsibility regulations, click [\*here\*](#).

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