Affordable Care Act 101: What The Health Care Law Means for Small Employers

October 2015

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Small Employers and Health Care

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For years, small businesses have reported that their **NUMBER ONE** concern has been access to **AFFORDABLE HEALTH CARE.**

Affordable Care Act

Before the Affordable Care Act (ACA) , small businesses paid on average 18% more in premiums than their larger competitors for the same benefits . The ACA helps small employers by lowering premium cost growth and increasing access to quality, affordable health insurance.

ACA Reduces Premium Cost Growth and Increases Access to Affordable Care

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Before ACA, Small Employers Faced Many Obstacles to Covering Workers

- Too few choices
- Higher premiums and unpredictable rate increases
- Higher rates for groups with women, older workers & those with chronic health concerns or high-cost illnesses, in most states
- Waiting periods or no coverage for individuals with Pre-Existing Conditions

Under the ACA, insurance companies:

- Face limits on administrative spending. Most insurers must now spend at least 80 percent of consumers' premium dollars on actual medical care
- Must disclose and justify proposed rate hikes of 10% or more, which states, or the federal government, may review
- Can't charge higher rates or deny coverage because of a chronic or pre-existing condition
- Can't charge higher rates for women, and face limits on charging additional premiums for older employees
- Must pool risks across small groups creating larger pools like large businesses
- Must not have annual dollar limits on coverage
- Must offer plans that provide a core package of "Essential Health Benefits" equal to typical employer plans in the state

Health Care Insurance Reforms Are Making a Difference for All Americans

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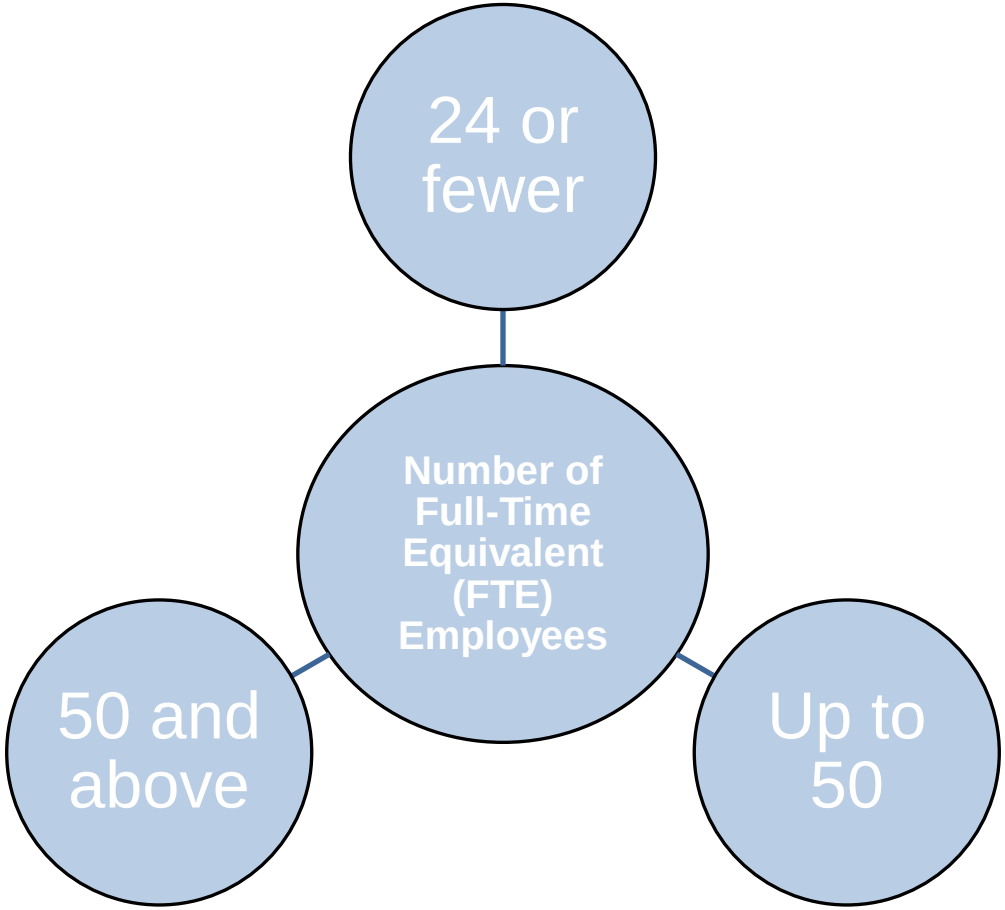
The Affordable Care Act is already making a difference for all Americans by offering strong consumer protections, improving quality and lowering costs, and increasing access to affordable care

- **6.6 Million Young Adults Have Coverage Through Parents' Plans**: 6.6 million young adults, including 3.1 million who were previously uninsured, now have health coverage through provision allowing young adults to stay on parent's plan until their 26th birthday
- **17 Million Children Cannot Be Denied Coverage Due to A Pre-existing Condition,** and in 2014, 129 million Americans with pre-existing conditions cannot be denied coverage or charged more
- **15 Million Americans Can No Longer Be Dropped by Their Insurance Companies**: Without ACA, the insurance industry could return to retroactively canceling coverage for a sick patient based on an unintentional mistake in their paperwork
- **6.1 million seniors saved over $5.7 billion for prescription drugs:** In 2012, more than 3.5 million seniors and people with disabilities who reached the Medicare Part D coverage gap received more than $2.5 billion in discounts, averaging $706 per beneficiary. Since the law was enacted, 6.1 million seniors saved over 5.7 billion for prescription drugs.
- **Electronic Records Reform**: According to The Centers for Disease Control and Prevention's National Center for Health Statistics (NCHS), the percentage of doctors adopting electronic health records increased from 48 percent in 2009 to 72 percent in 2012. Furthermore, at least two thirds of physicians have computerized capability to improve patient safety through various electronic tools (electronic medication lists, etc.) as of 2012.

How Will ACA Impact Small Employers?

It often depends on the size of the employer.

How many employees does the employer have?



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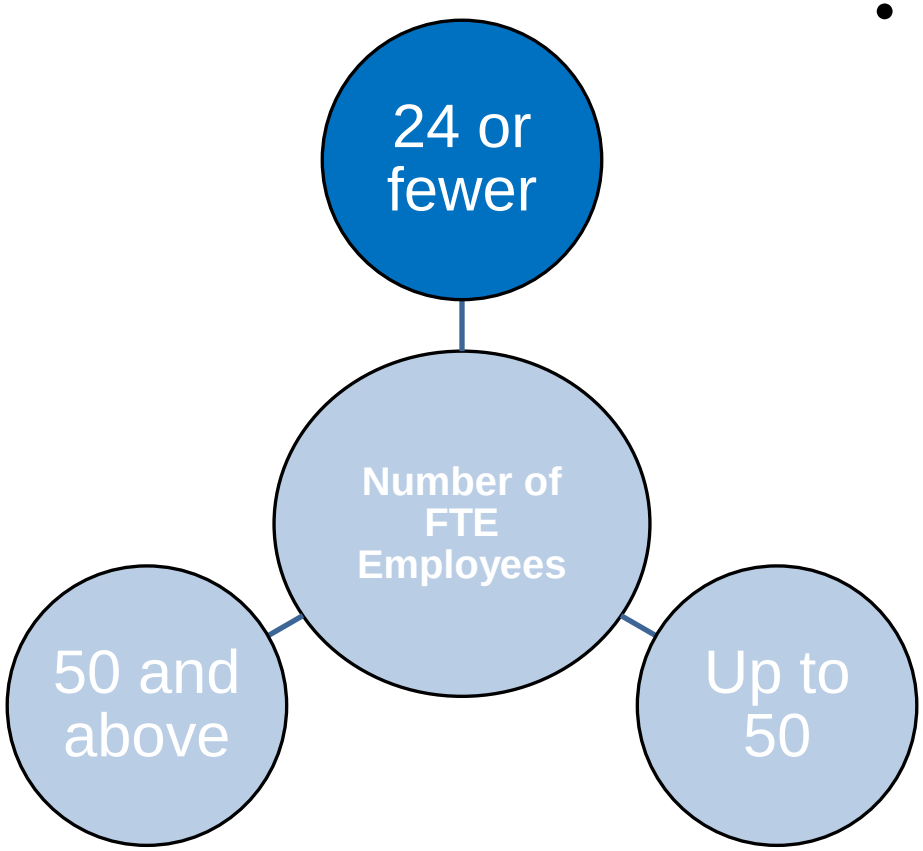
Small Business
Health Care Tax Credit

Employers with 24 or Fewer FTE Employees



- If these smaller employers provide coverage, they may qualify for the **Small Business Health Care Tax Credit** to help offset costs:
  - Must have average annual wages below $50,000*; and
  - Contribute a uniform 50% or more toward employees' self-only premium costs

Note: The **maximum tax credit** is available to employers with 10 or fewer full-time equivalent employees and average annual wages of less than $25,000

*Indexed for inflation yearly

Small Business Health Care Tax Credit

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- In 2010 - 2013, **up to 35%** of eligible small employer's premium contribution (25% for a tax-exempt employer)
  - Employers may still deduct remainder of contribution
  - Credit can be claimed through 2013

- For 2014 and beyond, the **credit goes up to 50%** (35% for tax-exempt employers)
  - To take advantage of the credit, employees must enroll in coverage offered by employer through one of the SHOP certified plans
  - Credit can be claimed for any 2 consecutive taxable years beginning in 2014 (or beginning in a later year)

Visit the SHOP Tax Credit Estimator:
https://www.healthcare.gov/shop-calculators-fte

- Transition relief for employers with plan years differing from their taxable years

Small Business Health Care Tax Credit

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Employer has 24 or fewer full-time equivalent employees

+

Employees' average annual wages are less than $50,000*

**Indexed for inflation annually*

+

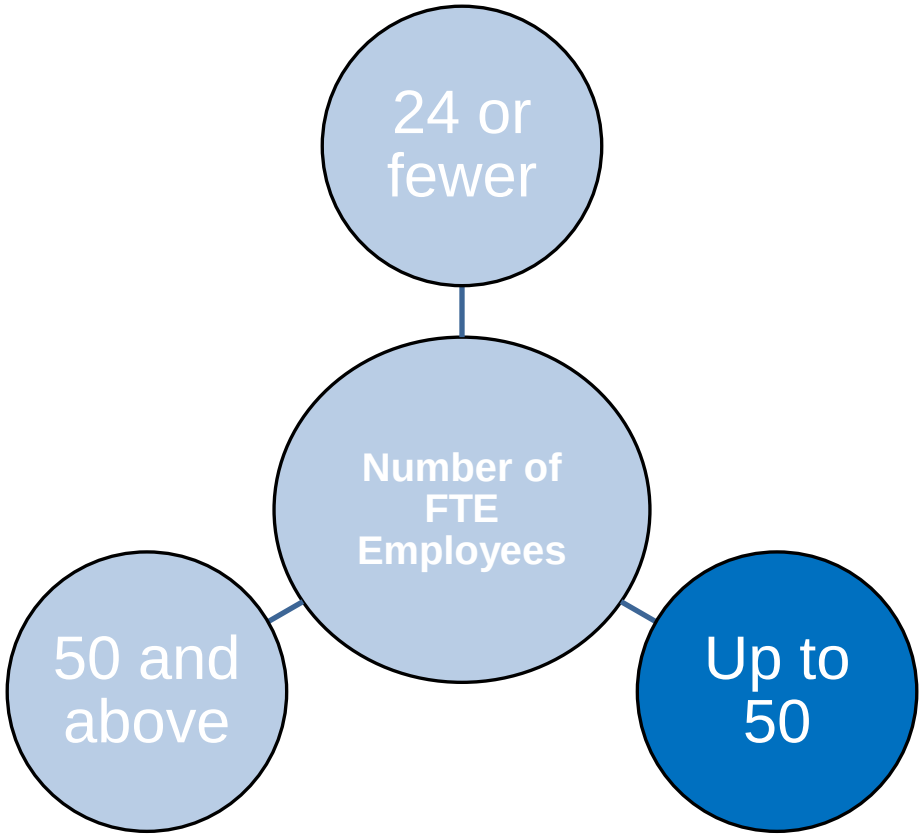
Employer pays a uniform amount of at least 50% of employees' self-only premium costs

=

Up to **50% Federal Tax Credit in 2014 if for-profit entity (up to 35% for tax-exempts)

**SHOP participants only*

Employers with Up to 50 FTE Employees



- If a small employer of this size chooses to offer coverage, there is a new way to do so: **Small Business Health Options Program** (SHOP) Marketplace
- Enhanced SB Health Care Tax Credits available for eligible employers with 24 or fewer employees participating in SHOP

Affordable Care Act

The Federally-Facilitated

SHOP Marketplace

What is the Federally-facilitated SHOP Marketplace?

The Small Business Health Options Program = SHOP

- Part of the Health Insurance Marketplace created by the Affordable Care Act (ACA)
- Offers small employers a choice of qualified health and dental plans and tools for making informed choices
- Gives otherwise eligible qualified small employers access to the Small Business Health Care Tax Credit—worth up to 50% of employer's premium contributions
- Works with new insurance reforms to spur competition based on price and quality
- **For coverage starting in 2015:** Offers online purchase and enrollment in health and dental coverage through HealthCare.gov
  - Offers small employers in 14 states the option to give employees a choice of plans

Note: Employers with fewer than 50 full-time-equivalent employees, aren't required to offer health insurance, and there's no penalty if they choose not to.

Who Can Purchase FF-SHOP Coverage and When?

Small employers:

- That have 1-50 full-time equivalent employees
- With at least one employee who is not a co-owner or spouse
- Including tax-exempt and religious employers
- That offer coverage to all full-time employees
  - In the FF-SHOP: employees working on average 30 or more hours/week

Visit the SHOP FTE Calculator
https://www.healthcare.gov/shop-calculators-fte/

Enroll in FF-SHOP coverage:

- Initial group enrollment can occur anytime during the year—no limited Open Enrollment period
  - Before 15th of month for coverage starting next month
  - After 15th of month for coverage starting 2nd following month

Requirements for Employee Participation in the FF- SHOP

The FF-SHOP sets a "minimum participation rate" for the SHOP

- Means that a certain percentage of employees must accept the employer's offer of coverage through the FF-SHOP before they'll be allowed to enroll
- Set at 70% in most states using FF-SHOP

"Employee participation rate" :

- Means the number of employees enrolling in coverage, divided by the number of employees offered coverage.
  - Employees aren't counted if they have coverage through another job, another person's job, or a governmental program. Employees' dependents aren't counted either.
- Online SHOP application calculates this and determines whether employer met minimum requirement
  - Based on information provided by employees

Exception to the minimum participation requirement

- From November 15 – December 15 each year, employers can enroll in FF-SHOP coverage without having to meet this minimum participation requirement

Browse Before Buying in the Federally Facilitated SHOP

Find Premium Estimates

- Online tool shows price estimates for the Federally-facilitated SHOP Qualified Health Plans and Qualified Dental Plans in their area
- Price estimates are based on the age-ranges of employees and location of business
- Agents, brokers or Navigators can help employers use this tool
- Employers can get final quotes for 2015 coverage as part of the online enrollment process on HealthCare.gov

Visit HealthCare.gov for Premium Estimates
https://www.healthcare.gov/see-plans/small-business/

Useful information for employers to have on hand

- Number of full-time employees
- Age of employees
- Whether the employer is offering coverage to dependents

Options for the Self-Employed

Use Health Insurance Marketplace for individuals, families

- Sole proprietors and shareholders with no employees and their spouses and dependents
- Owners, co-owners, and spouses with no employees

Important features of the Health Insurance Marketplace

- Tax credits may be available, depending on household income
- Individuals generally must enroll during Open Enrollment Period
  - Open Enrollment for 2015 is now closed
- Special enrollment periods for those with “qualifying life events” and other limited circumstances
  - Including marriage, divorce, or having a baby

What's New in the SHOP Marketplace for 2016

- **SHOP Marketplace Expansion:** Small Businesses with 1 – 100 FTE employees will be able to enroll in SHOP Marketplace coverage.
- **Employee Choice:** Employers in all states will be able to offer their employees a choice of health and dental plans through the SHOP Marketplace.
- **Dental-only Option:** Employers will be able to offer dental coverage, without offering health coverage through the SHOP Marketplace.
- **Relaxed Minimum Participation Rate (MPR):** Employers will still need to meet the SHOP MPR requirement (with the exception of the November 15 – December 15 window) to be able to enroll in the SHOP Marketplace, *but* employees with non-SHOP coverage will now be counted toward an employer's participation rate.
- **Online Renewal:** SHOP Marketplace renewals will take place online, without having to fill out a new application through HealthCare.gov.

How the SHOP Marketplace Works: Moving Toward Employee Choice

A key goal of the SHOP:

Options for small employers and their employees

In 2014:

- The FF-SHOP Marketplace offers employer choice, but no employee choice option
  - Employers choose among plan categories, insurers and plans, and offer a single plan to employees
- States running own SHOP can offer an Employee Choice option -- many do

In 2015:

- Employers in 14 states using the FF-SHOP Marketplace can offer employees a choice of plans

In 2016:

- The SHOP Marketplace in all states is expected to offer small employers an Employee Choice option

Employee Choice: Flexibility and Control

Advantages of offering employees a choice of plans:

- Less hassle for employers
- Better fit for employees
- More competitive benefits
- More competition between insurers
- Employer gets and pays just one monthly bill
- Employer sets choice limits

SHOP Marketplace States Offering Employee Choice in 2015

States using the FF-SHOP in 2015			
Alabama	Indiana	Nebraska	Pennsylvania
Alaska	Iowa	Nevada	South Carolina
Arizona	Kansas	New Hampshire	South Dakota
Arkansas	Louisiana	New Jersey	Tennessee
Delaware	Maine	North Carolina	Texas
Florida	Michigan	North Dakota	Virginia
Georgia	Missouri	Ohio	West Virginia
Illinois	Montana	Oklahoma	Wisconsin
			Wyoming

FF-SHOP States offering Employee Choice option in 2015

Need Assistance?

The SHOP Marketplace offers many ways to get help:

From the Toll Free SHOP Call Center: 1-800-706-7893 (TTY: 711)

- Available M-F 9:00am-7:00pm ET
- Assists employers, employees, agents and brokers

From a SHOP-registered agent or broker

- Employers who create an online SHOP Marketplace account can:
  - Search online to find one locally
  - Authorize that agent or broker to manage the employer's SHOP account online

From a Navigator or other assister

- "Find Local Help" on HealthCare.gov lets employers locate one in their area
  - https://localhelp.healthcare.gov – no SHOP Marketplace account needed

Sole proprietors, self-employed, use toll free:
Health Insurance Marketplace Call Center:
1-800-318-2596 (TTY: 1-855-889-4325)
Available 24/7 except certain holidays

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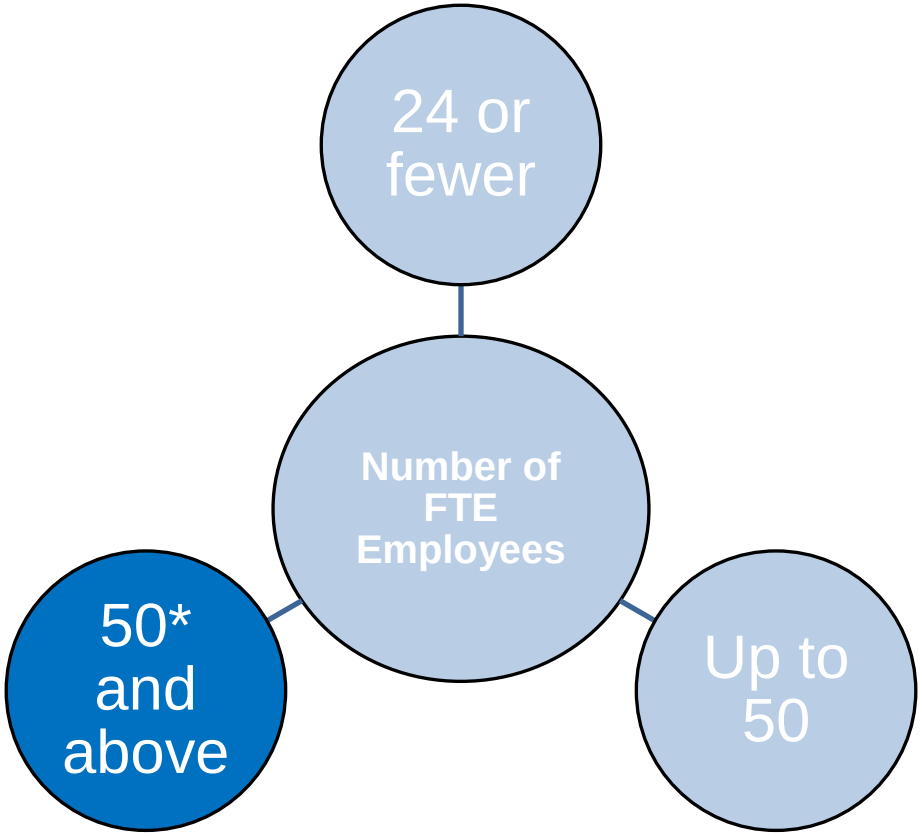
2015:
Employer Shared Responsibility for Employee Health Insurance Coverage

Employers with 50 or More Full-Time Employees (including Full-Time Equivalents)



Employer Shared Responsibility Provisions

*In 2015 there are various types of transition relief available for employers, including substantial relief for employers with 50 to 99 full-time/full-time equivalent employees.

Nearly All Small Firms Are Exempt from Employer Shared Responsibility Provisions

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- ACA exempts all employers that have fewer than 50 full-time employees (including full-time equivalent employees) – nearly 96 percent of all firms in the United States or 5.8 million out of 6 million total firms – from the employer shared responsibility provisions. These 5.8 million firms employ nearly 34 million workers.

- Many employers that do not currently offer coverage will be better able to do so because of lower costs and wider choices in the SHOP Marketplaces.

Employer Shared Responsibility Provisions: Key Definitions

- **Full-Time Employee:** an employee who is employed on average 30 hours or more per week (or at least 130 hours of service in a given month).

- **Full-Time Equivalent (FTE) Employee:** a combination of employees, each of whom individually is not a full-time employee because they are not employed at least 30 hours per week, but who, in combination, are counted as the equivalent of a full-time employee.
  - *For example, two employees each of whom works 15 hours/week are added together to equal one full-time employee.*

- **Controlled Group Employers:** employers with common owners or who are otherwise related are aggregated together to determine whether they meet the threshold number of 50 or more full-time employees (including full-time equivalent employees).

Employer Shared Responsibility Provisions

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If employer meets 50 (100 for 2015) full-time/FTE employee threshold, there are two scenarios for potential payment

- **EITHER**

(1) An employer does not offer coverage to at least 95%* of its full-time employees (and their dependents), **OR**

(2) The coverage offered to employer's full-time employees is not "affordable" or does not provide "minimum value" or particular full-time employee was not offered coverage

- **AND**

At least one full-time employee receives a premium tax credit in the individual Marketplace

*For 2015, replace 95% with 70%

Employer Shared Responsibility Provisions: Insurance Coverage Standards

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Coverage Provides Minimum Value

- Plan must cover, on average, at least 60% of the plan's total cost of incurred benefits
- HHS and IRS have an online calculator employers can use to input their plan details and determine if it meets the 60% value threshold.

Coverage is Affordable

- Coverage is unaffordable if the full-time employee's share of the lowest cost self-only coverage that provides minimum value costs more than 9.5% of his/her annual household income
- **Affordability safe harbor:** If the cost to the employee of a self-only plan is not more than 9.5% of his/her wages as reported on Box 1 of the W-2, it's deemed affordable for purposes of Employer Shared Responsibility

Employer Shared Responsibility Payments: Two Scenarios

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If Coverage Not Offered to at Least 95% (70% in 2015) of Full-Time Employees (and dependents), then

- Payment applies if any full-time employee receives a premium tax credit for coverage purchased in the individual Marketplace
- **Payment owed**: $2K/year times number of full-time employees in excess of 30 (*in excess of 80 for 2015*)
- Payment calculated separately for each month for which coverage not offered ($166.67/month)
- Payment based on employer's number of full-time employees for that month

If Coverage Offered to Full-Time Employees, but Either Not Affordable or Does Not Meet Minimum Value, then

- **Payment owed**: $3K/year per full-time employee who receives a premium tax credit for coverage purchased in the individual Marketplace
- Payment calculated on monthly basis = $250/month
- This payment can't exceed payment described in Scenario # 1 (left hand column)

Employer Shared Responsibility Provisions

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Other Key Points

- Whether an employer will owe a payment depends on whether it offers coverage and the quality of the coverage it offers rather than whether an employee accepts the offer of coverage.
- No employer payment is owed for part-time employees even if they receive a premium tax credit
- Only the receipt of the premium tax credit in the individual Marketplace triggers these payments - an employee obtaining coverage from another source (e.g., spouse's family coverage) does not
- In order to not be subject to an employer payment, employers that offer coverage to full-time employees must also offer coverage to the dependents* of those full-time employees who are children under age 26 (coverage for spouses is not required)

*There is transition relief for dependent coverage for 2015

Employer Shared Responsibility Provisions – Transition Relief in 2015

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- **50 – 99 Full-time Employees (Including Full-time Equivalent Employees):** Not subject to the ESR rules (subject to certification requirement below)

  Certification Requirement:
  - Did not reduce # of employees or employees' hours in order to qualify for the transition relief
  - Employer maintained previously offered health coverage to its employees

- Various other forms of transition relief are available for 2015 for employers that are subject to the provisions in 2015, including relief for non-calendar year plans and relief with respect to the standards under which an employer will owe an employer shared responsibility payment.

ACA Offers Strong Incentives for Employers to Continue to Offer Coverage

- The cost of providing coverage is tax deductible by the employer. By contrast, employer shared responsibility payments are not deductible.

- Employers that offer coverage have greater flexibility to tailor the coverage to provide those benefits most valued by their workforce and will enjoy competitive advantage in recruiting and retaining employees.

Information Reporting for Applicable Large Employers (ALE)

- §6056 – ALEs only
- Effective 2015; first reports due 2016
- Information reported includes:
  - Employer's Identifying & contact information
  - Number of FT employees
  - Information for each FT employee, including coverage offered, lowest employee cost of self-only coverage, and the months employee was covered, if applicable

Information Reporting Forms for Applicable Large Employers (ALE)

- Transmittal of Employer–Provided Health Insurance Offer and Coverage Information Returns (Form 1094-C)
  - Submitted to IRS
- Employer–Provided Health Insurance Offer and Coverage (Form 1095-C)
  - Provided to employees and submitted to IRS

Information Reporting for Providers of Minimum Essential Coverage (MEC)

- §6055 – Insurers, self-insured employers, government agencies providing government-sponsored coverage, and providers of miscellaneous MEC
- Effective 2015; first reports due 2016
- Information reported:
  - Name & contact info for insuring entity
  - Identifying information of persons covered & months of coverage
  - Name and EIN of employer providing insured group health plan

Information Reporting Forms for Providers of Minimum Essential Coverage (MEC)

- Transmittal of Health Coverage Information Return (Form 1094-B)
  - Submitted to IRS
- Health Coverage (Form 1095-B)
  - Provided to the policy holder or other responsible individual and submitted to IRS

Other ACA Provisions Impacting Small Businesses

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- W-2 Reporting of Annual Health care costs (unless required to file fewer than 250 W-2s in year prior)
- Employers covered by FLSA must notify any new hires about the Health Insurance Marketplace.
- Plans can't impose waiting periods of more than 90 days for otherwise eligible new hires to begin coverage.
- Employers may use additional incentives/rewards under workplace wellness programs (e.g. max reward increases to as much as 50% for smoking cessation programs).

Small Business Resources

- www.healthcare.gov
- www.sba.gov/healthcare
- www.irs.gov/aca
- www.Business.USA.gov