The

GUIDE TO

HEALTH CARE REFORM’S

TAX PENALTIES

Calculate Your
Health Insurance
Tax Penalty
Introduction

The Affordable Care Act (ACA) requires certain employers and employees to purchase health insurance or else pay a tax penalty.

Starting January 1, 2014:

- **Employees** are required to purchase health coverage or else pay a tax penalty.

Starting January 1, 2015*:

- **Employers** with 50 or more full time equivalent employees are required to provide health coverage to full-time employees or else pay a tax penalty.

*This ACA provision, often called the Employer Mandate or Employer Tax Penalties was delayed from 2014 to 2015 in July 2013.

As a result, employers and employees will need to understand the cost of **NOT** buying health insurance.

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A Guide to Calculating the Business Tax Penalty for Not Offering Health Insurance

The Health Care Reform bill requires certain businesses to offer employees health insurance. Starting in 2015, businesses with more than 50 full-time equivalent employees will be required to either offer health care coverage or pay a tax penalty. So, how exactly do you calculate the business health insurance tax penalty?

The Business Health Insurance Tax Rule is NOT Simple:

Effective January 1st, 2015, “applicable large employers” will be required to offer “minimum essential coverage” that is “affordable” to their employees. “Applicable large employers” who fail to offer “minimum essential coverage” that is “affordable” will be required to pay a “penalty” on their tax return.

In order to calculate the business health insurance tax penalty, you must answer the following questions:

1. Are you an “applicable large employer”? 

For purposes of the business health insurance tax penalty, a company is defined as an applicable large employer on a calendar year basis. For example, a company could be an applicable large employer in 2016, but not in 2015. If the company employed 50 or more full-time employees on average during the preceding calendar year, they are an applicable large employer for the current calendar year.

A company is NOT an applicable large employer if the company:

1. Employed less than 50 full-time employees on average during the previous calendar year, or
2. Employed more than 50 full-time employees no more than 120 days during the previous calendar year due to a seasonal workforce.

Calculating the number of full-time employees.

Generally, a full-time employee is an employee who is employed on average at least 30 hours of service per week in a given month. However, for purposes of determining whether a company is an applicable employer, the company must include all full-time employees plus the full-time equivalent of its part-time employees.

To calculate the full-time equivalent of part-time employees, a company should add the number of hours worked by part-time employees and divide the total by 120.

The sum of the full-time employees and the full-time equivalent of the part-time employees is the number used to determine whether a company is an applicable large employer.

Simple translation: If you have less than 50 employees, you are not an applicable large employer. If you have 50 or more employees, you probably are an applicable large employer.
2. What qualifies as “minimum essential coverage”? 

For purposes of the business health insurance tax penalty, minimum essential coverage is the minimum amount of health insurance coverage an applicable large employer must make available to avoid paying the maximum penalty (see #3, below).

In order to avoid paying the maximum penalty, the employer must offer each employee the ability to enroll in minimum essential coverage through an “eligible employer-sponsored plan”, which is:

1. Any plan or coverage offered in the small or large group market within a State (including small business exchanges),
2. Coverage under a grandfathered health plan, or
3. A qualified governmental plan.

3. What is the penalty if I do not offer “minimum essential coverage”? 

An applicable large employer who does not offer minimum essential coverage may not have to pay a penalty. The employer only pays a penalty if at least one employee enrolls in a health insurance exchange and also qualifies for premium subsidies and/or other tax credits from the federal government.

If at least one employee receives federal subsidies due to purchase of health insurance through an exchange in a given month, the employer must pay a monthly penalty based on the number of full-time employees employed during that month.

**IMPORTANT:** When calculating the amount of the penalty, the employer receives a credit of 30 full-time employees. (For example, a company with 50 full-time employees only has to consider 20 employees for purposes of the penalty).

The annual per employee penalty is $2,000.

To get the monthly per employee penalty, you simply divide the annual penalty by 12.

To calculate the total monthly penalty, you multiply the # of full-time employees employed during the month minus 30 by the monthly per employee penalty.

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**Example.**

In February, ABC Manufacturing employs 60 full-time employees and does not offer minimum essential coverage. In February, at least one employee purchases health insurance through the exchange and receives premium subsidies from the federal government.

The annual per employee penalty is $2,000.

The monthly per employee penalty is $2,000*(1/12).

For purposes of this calculation, we only need to consider 30 full-time employees due to the 30-employee credit.

The total monthly penalty is equal to 30*2,000*(1/12) which is $5,000.
4. What is the penalty if I do offer “minimum essential coverage,” but it is not “affordable” for some of my employees?

An applicable large employer that offers minimum essential coverage to its full-time employees may still be required to pay a penalty if the coverage is not “affordable” for one or more employees.

An employer’s coverage is considered unaffordable for any full-time employees who, in a given month, enroll in a health plan offered through an Exchange and are eligible to receive federal premium subsidies (or cost-sharing subsidies). An employee is only eligible for premium subsidies through the exchange if their required contribution for their employer’s plan is greater than 9.5%.

If one or more full-time employees receive federal subsidies due to purchase of health insurance through an exchange in a given month, the employer must pay a monthly penalty based on the number of full-time employees who receive federal subsidies.

The annual per employee penalty for not offering affordable coverage is $3,000.

To get the monthly per employee penalty, you simply divide the annual penalty by 12.

To calculate the total monthly penalty, you multiply the number of full-time employees who receive premium subsidies (or cost-sharing subsidies) by the monthly per employee penalty.

The penalty is capped at a maximum of $2,000 per full-time employee per year (minus the 30 employee credit).

**Example.**

In February, ABC Manufacturing employs 60 full-time employees and does offer minimum essential coverage. In February, three (3) employees purchase health insurance through an exchange and receive premium subsidies from the federal government. Thus, the coverage is unaffordable for three (3) employees for the month of February.

The annual per employee penalty is $3,000.

The monthly per employee penalty is $3,000*(1/12).

For purposes of this calculation, we only need to consider the 3 full-time employees who are receiving federal subsidies.

The total monthly penalty is equal to 3*3,000*(1/12) which is $750.
Guide to Calculating the Individual Tax Penalty for Not Purchasing Health Insurance

The Health Care Reform bill requires certain individuals to purchase health insurance, else pay a tax penalty:

Effective January 1st, 2014, "applicable individuals" will be required to maintain "minimum essential coverage" for themselves and their dependents. "Applicable individuals" who fail to maintain "minimum essential coverage" will be required to pay a "penalty" on their tax return.

You are probably wondering....

1. Who are "applicable individuals"?
2. What is "minimum essential coverage"?
3. How much is the "penalty"?

Let's answer those questions here.

1) Who are "applicable individuals" for the Individual Mandate?

A person is defined as an applicable individual on a monthly basis. For example, you could be an applicable individual in January, but not in February.

A person is an applicable individual, unless one of the following circumstances applies:

1. The person has been approved for a religious exemption under Section 1311(d)(4)(H) of the Patient Protection and Affordable Care Act (PPACA)
2. The person is a member of a health care sharing ministry
3. The person is not a citizen or national of the United States or an alien lawfully present in the United States
4. The person is incarcerated without any pending disposition of charges

*Simple translation: A U.S. citizen is an applicable individual unless he or she is religiously exempt, a member of a health care sharing ministry, or in jail.*
2) What is "minimum essential coverage" for the Individual Mandate?

Minimum essential coverage is the minimum amount of health insurance coverage an applicable individual must purchase to avoid paying the penalty (see #3, below).

The following plans qualify as minimum essential coverage:

1. Coverage under government sponsored programs (e.g. Medicare and Medicaid)
2. Coverage under an employer-sponsored group health plan offered in the small or large group market within a State
3. Coverage under a plan offered in the individual market within a State
4. Coverage under a grandfathered health plan
5. Coverage under a State risk pool as recognized by the Secretary of Health and Human Services (HHS)

The following plans do not qualify as minimum essential coverage:

1. Coverage only for accident, or disability income insurance, or any combination thereof
2. Limited scope dental or vision benefits
3. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof
4. Coverage for on-site medical clinics
5. Coverage only for a specified disease or illness
6. Hospital indemnity or other fixed indemnity insurance
7. Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits

Simple translation: "If you have individual health insurance, employer-sponsored group health insurance, or if you participate in a State risk pool, Medicare or Medicaid, then you have minimum essential coverage."
3) How much is the "tax penalty" for the Individual Mandate?

If an applicable individual does not maintain minimum essential coverage for one or more months during a tax year, then he or she must pay a penalty.

The size of the penalty is phased-in over three years:

- In 2014, the penalty will be $95 per person up to a maximum of three times that amount for a family ($285)* or 1% of household income if greater.
- In 2015, the penalty will be $325 per person up to a maximum of three times that amount for a family ($975)* or 2% of household income if greater.
- In 2016, the penalty will be $695 per person per year up to a maximum of three times that amount for a family ($2,085)* or 2.5% of household income if greater.

*Note: If you claim dependents, you are responsible for making sure they have minimum essential coverage.

Each year, the penalty is capped at an amount equal to the national average premium for bronze level health plans offered through state exchanges.

You can be exempted from the penalty calculation for a month if during the month:

1. You have income below the filing threshold determined by the Secretary of the HHS.
2. Your cost to purchase health insurance exceeds 8% of gross income.
3. You are a member of an Indian tribe.
4. The secretary of HHS determines you qualify for a hardship that makes you incapable of obtaining health insurance.

*Simple translation: The amount of the penalty depends on a number of factors including your income, the size of your household, and your access to affordable health insurance.*
The Requirement to Buy Coverage Under the Affordable Care Act

Do any of the following apply?
- You are part of a religion opposed to acceptance of benefits from a health insurance policy.
- You are an undocumented immigrant.
- You are incarcerated.
- You are a member of an Indian tribe.
- Your family income is below the threshold requiring you to file a tax return ($9,350 for an individual, $18,700 for a family in 2010).
- You have to pay more than 8% of your income for health insurance, after taking into account any employer contributions or tax credits.

Yes → There is no penalty for being without health insurance.

No → Were you insured for the whole year through a combination of any of the following sources?
- Medicare.
- Medicaid or the Children’s Health Insurance Program (CHIP).
- TRICARE (for service members, retirees, and their families).
- The veteran’s health program.
- A plan offered by an employer.
- Insurance bought on your own that is at least at the Bronze level.
- A grandfathered health plan in existence before the health reform law was enacted.

Yes → The requirement to have health insurance is satisfied and no penalty is assessed.

No → There is a penalty for being without health insurance.

2014
Penalty is $95 per adult and $47.50 per child (up to $285 for a family) or 1.0% of family income, whichever is greater.

2015
Penalty is $325 per adult and $162.50 per child (up to $975 for a family) or 2.0% of family income, whichever is greater.

2016 and Beyond
Penalty is $695 per adult and $347.50 per child (up to $2,085 for a family) or 2.5% of family income, whichever is greater.

The penalty is pro-rated by the number of months without coverage, though there is no penalty for a single gap in coverage of less than 3 months in a year. The penalty cannot be greater than the national average premium for Bronze level coverage in an Exchange. After 2016, penalty amounts are increased annually by the cost of living.

Key Facts:
- Premiums for health insurance bought through Exchanges would vary by age. The Congressional Budget Office estimates that the national average annual premium in an Exchange in 2016 would be $4,500-5,000 for an individual and $12,000-12,500 for a family for Bronze coverage (the lowest of the four tiers of coverage that will be available).
- In 2010 employees paid $899 on average towards the cost of individual coverage in an employer plan and $3,997 for a family of four.
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