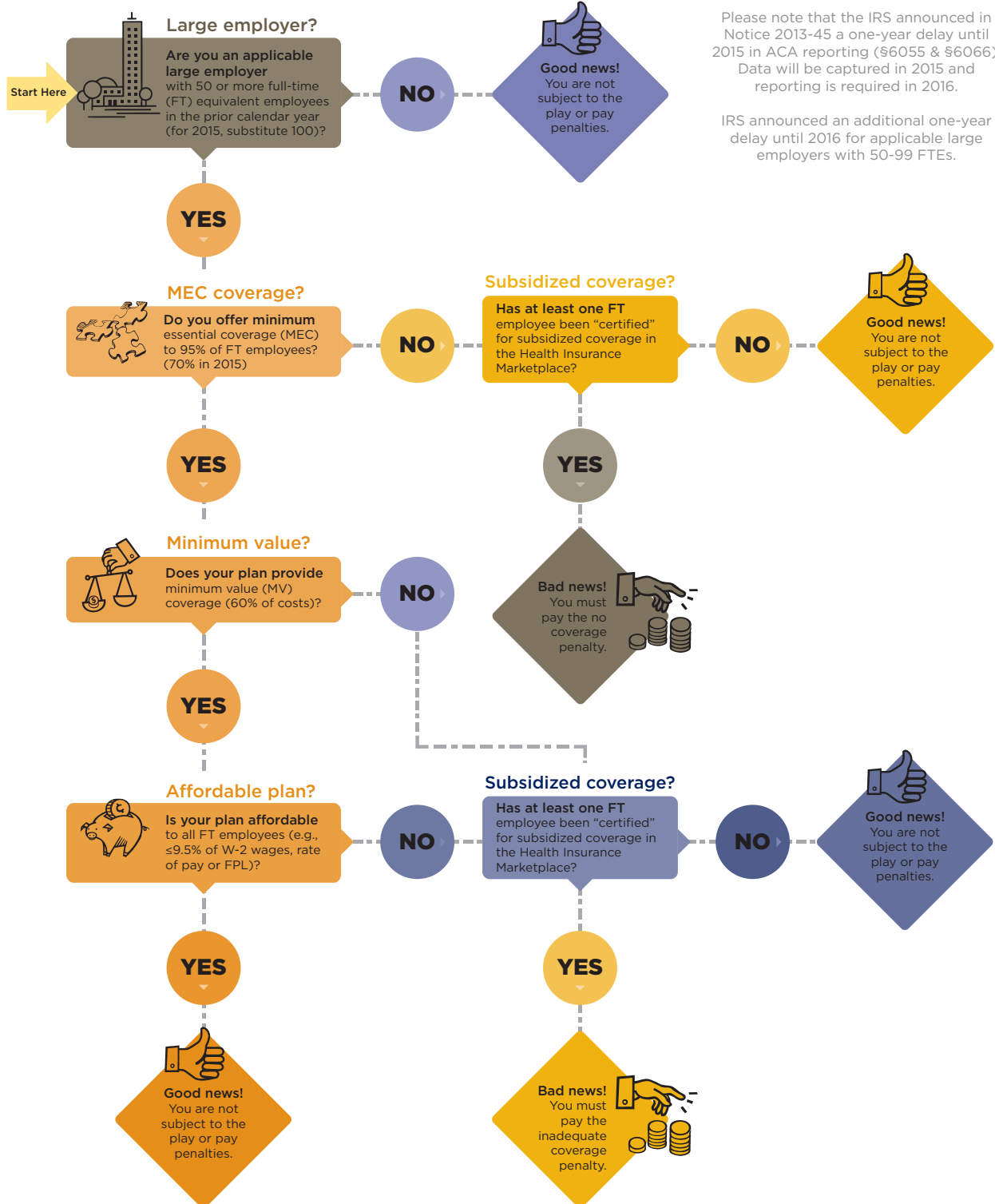


Shared Responsibility for Employers

The Affordable Care Act (ACA)



Please note that the IRS announced in Notice 2013-45 a one-year delay until 2015 in ACA reporting (§6055 & §6066). Data will be captured in 2015 and reporting is required in 2016.

IRS announced an additional one-year delay until 2016 for applicable large employers with 50-99 FTEs.

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Issues & Guidance

Key Question	Important Issues	Significant Guidance
Are you an "applicable large employer" with 50 or more full-time (FT) equivalent employees in the prior calendar year? (100 or more in 2014 for purposes of 2015 tax year)	<ul style="list-style-type: none"> Full-time (FT) employees average 30+ hours/week (130 hours/month) FT status involves measurement, administrative & stability periods Part-time (PT) employees count as full-time equivalents (FTEs) All employers in a controlled group count as a single employer Employees working in foreign locations do not count Seasonal worker exception applies if at or above 50 for ≤120 days Each month, add FT employees & FTEs, total all 12 months, divide by 12 	<ul style="list-style-type: none"> Internal Revenue Code (IRC) §4980H Final Shared Responsibility Regulations (February 10, 2014)
Do you offer "minimum essential coverage" (MEC) to 95% of FT employees (70% in 2015)?	<ul style="list-style-type: none"> MEC must be offered to 95% of FT employees (70% in 2015) If <95%, MEC must be offered to all but 5 or fewer FT employees Spousal coverage is NOT required; for 2015, dependent coverage is NOT required if safe harbor met The monthly no coverage penalty is equal to \$2,000 x 1/12 x # of months x (# of FT - 30 [- 80 for 2015]) \$2,000 applicable payment amount increases annually 	<ul style="list-style-type: none"> IRC §4980H IRC §5000A(f) Final Shared Responsibility Regulations (February 10, 2014)
Has at least one FT employee been "certified" for subsidized Marketplace coverage?	<ul style="list-style-type: none"> At least one FT employee must be certified for subsidized coverage in the Marketplace To qualify for the subsidy, individual's household income must be ≤400% of federal poverty line (FPL), no Medicaid/Medicare, no coverage through spouse 	<ul style="list-style-type: none"> IRC §4980H Final Health Insurance Premium Tax Credit Regulations (May 23, 2012)
Does your plan provide "minimum value" coverage (60% of costs)?	<ul style="list-style-type: none"> 60% threshold is commonly known as bronze level coverage An appropriate portion of employer HRA & HSA contributions may be included in the minimum value calculation Three methods exist for determining minimum value: <ul style="list-style-type: none"> Minimum value calculator, provided by HHS Design-based safe harbor checklist, to be issued by federal agencies Actuarial certification 	<ul style="list-style-type: none"> IRC §36B(c) IRC §4980H Final Shared Responsibility Regulations (February 10, 2014)
Is your plan "affordable" to all FT employees (e.g., ≤9.5% of W-2 wages)?	<ul style="list-style-type: none"> Affordability is based on prior year's W-2 wages (Box 1) & current year's amount of lowest cost, self-only coverage that provides minimum value Two other affordability safe harbors are based on rate of pay & FPL The monthly inadequate coverage penalty is equal to the LESSER of: <ul style="list-style-type: none"> \$3,000 x 1/12 x # of months x # of FT receiving Marketplace subsidy OR \$2,000 x 1/12 x # of months x (# of FT - 30 [- 80 in 2015]) \$2,000 & \$3,000 applicable payment amounts increase annually 	<ul style="list-style-type: none"> IRC §36B(c) IRC §4980H Final Shared Responsibility Regulations (February 10, 2014)

Examples

Key Result	Important Facts	Rationale
Good news! No penalty	<ul style="list-style-type: none"> Employer has 39 FT employees Employer has 2 PT employees, each of whom works 15 hours per week Employer has 80 FT seasonal workers who work 4 months per year 	<ul style="list-style-type: none"> Employer is NOT subject to play or pay tax penalties Employer averages 66 FT employees: $((39 + .5 + .5) \times 8) + ((39 + .5 + .5 + 80) \times 4) / 12 = ((40 \times 8) + (120 \times 4)) / 12 = (320 + 480) / 12 = 800 / 12 = 66.5 \approx 66$ Employer was above 50 for only 120 days: 4 mos X 30 Employer satisfies seasonal worker exception & is NOT an applicable large employer
Bad news! No coverage penalty applies	<ul style="list-style-type: none"> Employer is an applicable large employer with two companies in controlled group (A: 80 FT employees; B: 20 FT, 12 months of the year) A does not offer major medical coverage; B offers minimum essential coverage At least one FT employee of A receives subsidized Marketplace coverage 	<ul style="list-style-type: none"> A is subject to the no coverage penalty; B is not Reduce A's penalty by proportional share of 30 (80 in 2015) $(80/100, 80\%)$ Penalty formula for 2016 & beyond: $\\$2,000 \times 1/12 \times 12 (80 - (30 \times 80\%)) = \\$2,000 (80 - 24) = \\$2,000 \times 56 = \\$112,000$ Penalty is \$112,000
Bad news! Inadequate coverage penalty applies (no MV)	<ul style="list-style-type: none"> Employer is an applicable large employer with 200 FT employees for 12 months of the year Employer's plan provides minimum essential coverage, but covers only 55% of plan costs 50 FT employees receive subsidized Marketplace coverage 	<ul style="list-style-type: none"> Employer is subject to inadequate coverage penalty Coverage does NOT provide minimum value $(55\% < 60\%)$ Penalty formula for 2016 & beyond, the lesser of: $\\$3,000 \times 1/12 \times 12 \times 50 = \\$150,000$ or $\\$2,000 \times 1/12 \times 12 \times (200 - 30) = \\$2,000 \times 170 = \\$340,000$ Penalty is \$150,000
Bad news! Inadequate coverage penalty applies (>9.5%)	<ul style="list-style-type: none"> Employer is an applicable large employer with 300 FT employees for 12 months of the year Employer's plan provides minimum essential coverage & covers 70% of plan costs 10 FT employees earn \$2,000 per month & receive subsidized Marketplace coverage Employee self-only contribution is \$200 per month 	<ul style="list-style-type: none"> Employer is subject to inadequate coverage penalty Coverage provides minimum value but is unaffordable Determination: $\\$200 / \\$2,000 = 10\% > 9.5\%$ Penalty formula for 2016 and beyond, the lesser of: $\\$3,000 \times 1/12 \times 12 \times 10 = \\$30,000$ or $\\$2,000 \times 1/12 \times 12 \times (300 - 30) = \\$2,000 \times 270 = \\$540,000$ Penalty is \$30,000
Good news! No penalty	<ul style="list-style-type: none"> Employer is an applicable large employer with 500 FT employees for 12 months of the year Employer's plan provides minimum essential coverage & covers 75% of plan costs All employees earn at least \$2,000 per month Employee self-only contribution is \$180 per month 	<ul style="list-style-type: none"> Employer is not subject to play or pay tax penalties Coverage provides minimum value Coverage is affordable for all employees $(\leq 9.5\% \text{ of wages})$ Determination: $\\$180 / \\$2,000 = 9\% \leq 9.5\%$