




	<h2 style="text-align: center;">CHATTANOOGA TAX PRACTITIONERS</h2> <p style="text-align: center;"><i>Employer "Shared Responsibility"</i></p> <p style="text-align: center;"><i>Presented by</i></p> <p style="text-align: center;">James L. Catanzaro, Jr.</p>
September 18, 2013 Liberty Tower	
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	<p>Effective <u>January 1, 2015</u>, "large" employers must provide to employees "adequate" and "affordable" health insurance coverage, meeting essential minimum requirements.</p>
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	<p>Help answer two questions for our clients today:</p> <ol style="list-style-type: none">1. Does it apply?2. If so, what are my options?
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	<p>1. Does it Apply?</p> <p>Are you a "large" employer? A large employer employs 50 or more <u>full-time equivalents</u> in a month.</p>
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	<p>For purposes of determining, employers must not only count employees who work 30 or more hours per week in a month but also <u>other equivalent full-time workers</u>. Seasonal works, those working fewer than 120 days in a year, are excluded.</p>
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	<p>The employer must count the total number of hours worked by part-time employees to determine if as aggregated there are additional FTEs.</p>
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	<p>For example, assume 35 employees work 30 or more hours per week. In addition, 20 employees work on average 24 hours per week. The monthly calculation would be:</p> <p>$20 \times 96 \text{ monthly hours} = 1,920 \text{ total hours} \div 120 \text{ monthly hours} = 16 \text{ FTEs}$. 16 FTEs is added to 35 FTEs to total 51.</p>
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	<p>Special Consideration:</p> <ol style="list-style-type: none">1. Commonly controlled entities must aggregate employees under IRS rules. 26 USC 414(b),(c), (m) and (o).2. "Common law employees" controlled by employer under IRS rules, e.g., independent contractor deemed employees?
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	<ol style="list-style-type: none">2. What are My Options?<ol style="list-style-type: none">A. Understanding the coverage required and penalties applicable.
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	<p style="text-align: center;"><u>COVERAGE REQUIRED</u></p> <p>1. Must offer "affordable" coverage. Coverage does not require employee to pay more than 9.5% of household income for premiums. Employers may use W-2 to determine "household income".</p> <p style="text-align: right;"><small>10</small></p>
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	<p>2. Coverage must also be adequate. Coverage which will pay 60% or more of the average health care costs for plan members as actuarially determined.</p> <p style="text-align: right;"><small>11</small></p>
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	<p>3. Provide Minimum Coverage of certain health care benefits (excludes dental and vision plans and most FSAs/HSAs).</p> <p style="text-align: right;"><small>12</small></p>
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	Subject employers must determine what this will cost to provide.
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	Penalties for Non-Compliance 1. There are two potential penalties that apply if <u>any</u> employee purchases coverage through an exchange and receives a subsidy/credit: a. If a "large" employer does not provide coverage: the total number of full-time employees (not full-time equivalents) <i>minus</i> 30 multiplied by \$2,000 divided by 1/12.
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	b. If coverage is provided but not adequate, penalty is <i>lesser of</i> the number reached using the previous calculation or \$3,000 multiplied by the number of employees receiving subsidies.
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Source: CRS analysis of P.L. 111-148 and P.L. 111-152.

Will the Employer Pay A Penalty? beginning in 2014

Are you a large employer?
at least 50 full-time equivalent workers
- including full-time [50+ hours per week] and
part-time workers [pro-rated]
- excluding seasonal workers [up to 120 days per year]

Are any of your full-time employees
in an exchange plan and receiving
a premium credit?

Do you have more than
30 full-time employees?

Do you provide health insurance?

No penalty

Pay Monthly Penalty, lesser of:
1/12 x \$2,000 x
(Number of full-time
employees - 30) **or** 1/12 x \$3,000 x
(Number of full-time
employees who receive
credits for exchange coverage)


Pay Monthly Penalty
1/12 x \$2,000 x
(Number of full-time
employees - 30)


HOW TO APPLY THE PENALTY FORMULA


1. Who are the full-time employees for which penalties apply?

Identifying Full-Time Employees

Step One:
A measurement period is set by the employer, and must be uniformly applied to a class of employees. It can range from a minimum of three months to a maximum of twelve months.

	Seasonal workers excluded based on good faith determination made by employer. IRS Notice 2012-58.
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	Step Two: Employers can create an “administrative” period up to 90 days to enroll eligible employees which intervenes between the measurement and stability periods.
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	Step Three: Establish stability period which must be at least six months in duration but <u>not</u> less than <u>measurement</u> period. Employees identified from measurement period and employed in stability period counted in calculation during this period if any receive a premium subsidy. This applies regardless of hours actually worked in this period.
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Source: CRS based on IRS Notice 2012-58 Determining Full-time Employees for Purposes of Shared Responsibility for Employers Regarding Health Coverage.

The diagram illustrates a timeline for determining full-time status. It starts with a 'Standard Measurement Period' of 3 to 12 months to determine if an employee is full-time. This is followed by an 'Admin Period' of up to 90 days. Then, a 'Stability Period' of at least 6 months begins, during which a penalty is only paid if required. Finally, the 'Standard Measurement Period' repeats.

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Questions?

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