

IRS Announces Penalties Under the Employer Mandate Will Not Apply Until 2015

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Late on July 2, 2013, the IRS announced a special, one-year transition rule for the employer “shared responsibility” mandate (also known as the “play or pay” mandate) and the related reporting obligations under the **Affordable Care Act (ACA)**.

A statement posted to the IRS’s website says, in part:

“The Administration is announcing that it will provide an additional year before the ACA mandatory employer and insurer reporting requirements begin. This is designed to meet two goals. First, it will allow us to consider ways to simplify the new reporting requirements consistent with the law. Second, it will provide time to adapt health coverage and reporting systems while employers are moving toward making health coverage affordable and accessible for their employees. Within the next week, we will publish formal guidance describing this transition.

...

We recognize that this transition relief will make it impractical to determine which employers owe shared responsibility payments (under section 4980H) for 2014. Accordingly, we are extending this transition relief to the employer shared responsibility payments. These payments will not apply for 2014. Any employer shared responsibility payments will not apply until 2015.”

The full IRS statement can be found [here](#).

The employer mandate generally requires that applicable large employers offer substantially all full-time employees affordable health care coverage that provides a minimum level of benefits or pay a penalty. For more information about the employer mandate, please see our client alert, which can be

found [here](#). The related reporting obligations are intended to assist the IRS in identifying which individuals do/do not have the required minimum coverage, and in administering the employer shared responsibility mandate.

The IRS statement notes that this special transition rule does not affect other parts of the ACA. Presumably, this includes the individual “shared responsibility” mandate, the exchanges (marketplaces), and the various insurance reforms and mandated benefits that apply to group health plans.

Additional guidance from the IRS is necessary to understand the full scope of this transition rule before employers take action based on this announcement. While the formal guidance could require “good faith” efforts to comply with the current rules, based on the IRS’ statement, it is more likely that the IRS will establish some form of voluntary information reporting for 2014 as a test of the reporting systems as employers transition to full implementation in 2015.

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National Law Review, Volume III, Number 185

Source URL: <https://natlawreview.com/article/irs-announces-penalties-under-employer-mandate-will-not-apply-until-2015>