

IRS Reaffirms ACAs Employer Mandate

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While the long-term future of the Affordable Care Act may be in doubt, the law's application to employers remains largely unaffected by recent political developments.

Information letters recently released by the IRS Office of Chief Counsel, responding to inquiries about the status of the ACA's employer shared responsibility requirements (the "employer mandate"), emphasize that these requirements remain effective. Therefore, an "applicable large employer" (an organization, or group of related organizations, that averaged at least 50 or more full-time equivalent employees in the prior year) could face penalties for failing to offer adequate health coverage to full-time employees and their non-spouse dependents.

The IRS information letters indicate that no waivers under the employer mandate are available, including for financial or religious reasons. The letters expressly acknowledge President Trump's January executive order directing federal agencies to exercise any discretion permitted to them by law to reduce potential burdens imposed by the ACA. However, the IRS noted that the executive order "does not change the law; the legislative provisions of the ACA are still in force until changed by the Congress, and taxpayers remain required to follow the law and pay what they may owe."

In light of the ongoing applicability of the employer mandate, employers should continue to track the hours of variable hour employees pursuant to an approved methodology under the ACA regulations to determine whether an employee must be treated as full-time for any coverage period, as well as for IRS reporting requirements. Relatedly, employers should be preparing for the reporting of health plan coverage information for 2017, due the first quarter of 2018. On August 3, the IRS released draft versions of Form 1094-B and Form 1095-B, used by coverage providers to report health plan enrollment, and of Form 1094-C and Form 1095-C, used to report information for IRS enforcement of both the employer and individual mandates under the ACA.

[Please contact me](#) or any member of [Barley Snyder's Employee Benefits Group](#) with any questions you may have about health plan compliance.