



**National Retail Federation**<sup>®</sup>  
*The Voice of Retail Worldwide*

# No Returns?

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# Retail and Health Care Reform

**American Enterprise Institute**

June 15, 2010

Washington, DC

# National Retail Federation

- As the world's largest retail trade association and the voice of retail worldwide, the National Retail Federation's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the U.S. and more than 45 countries abroad.
- In the U.S., NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers – about 1 of every 5 American workers – and generated 2009 sales of \$2.3 trillion.

# Health Reform is Here ... But Not the Reform We Asked For

- The debate did not end the way we wanted, but as of the end of March 2010, health care reform is the law of the land.
- The reform law (Patient Protection and Affordable Care Act of 2010) largely skipped genuine reform in favor of punitive mandates and government expansion.
- What will be the long-term consequences?

# Key Problems

- The new law is deficient in at least three key respects:
  - **The mandate on employers is both punitive and anti-job** – and ultimately hazardous to our economy.
  - **Efforts to reduce the cost of medical care** – the primary driver of insurance premiums – **are tentative and insufficient.**
  - Third, **this is a massively expensive law**, financed through mandate penalties, new taxes, increased Medicare payroll taxes on earned and (for the first time) unearned income (particularly affecting Subchapter S firms) and a wide array of other revenue raisers, including a burdensome requirement to issue 1099 forms for most transactions.

# Mandates – 2014

- Every American citizen and legal resident must purchase qualified coverage.
- Employers with more than 50 full-time employees who do not offer qualified coverage to full-time employees are subject to penalties and may also be penalized if coverage is deemed “unaffordable” to an employee.
- Employees must accept coverage but can opt out in designated low income categories.

# Coverage Threshold

- Applies to employers with 50 or more full-time employees.
- Full-time employee is defined as working an average of 30 hours per week per month.
- Part-time employees count toward this threshold
  - Total part-time hours per month divided by 120 = full-time equivalents.
  - Seasonal workers (holidays) are not included in threshold counts **unless** they work more than 120 days in a calendar year.
  - Temporary workers may also count toward threshold.

# Covered Employers Who Don't Offer to Full-Time Employees

- Penalized for the 31<sup>st</sup> uncovered full-time employee (first 30 are exempt) @ \$2,000 per if one covered employee is eligible for by income (more than 9.5% of family income) and receives an exchange credit.
  - Penalty is monthly – charge for employees 31 to X is \$166.67 per uncovered employee.
  - Penalty is nondeductible.

# Employers Who Offer Unaffordable Coverage to Full-Time Employees

- Full-time employees whose cost exceeds 9.5% of their family income can opt out of their employer's plan and receive subsidized coverage in the Exchange.
- Employers are penalized the lesser of \$3,000 per subsidy-recipient employee or \$2,000 times every full-time employee minus the first 30.
  - Penalty is monthly -- \$250 per subsidy-eligible employee per month.
  - Penalty is not tax deductible.

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## Health Mandate Cost Calculator

**Health Care Reform** (Patient Protection and Affordable Care Act of 2010 – PPACA) is now the law of the land. One key issue affecting all employers – but especially the retail and restaurant industries – is the employer mandate, seen here as employer mandate penalties for failure to offer or an offer of unaffordable coverage.

These financial penalties apply to employers with more than 50 full-time or full-time-equivalent employees who either do not offer coverage to full time employees (and one full-time employee receives a tax subsidy) or offers coverage to full-time employees and the cost exceeds a threshold of a full-time employee's income and the employee receives a tax subsidy. The employer mandate penalties begin in 2014.

### Sounds complicated?

The National Retail Federation has created a special **Health Mandate Cost Calculator** to help you better understand your potential mandate penalty exposure. Your actual status could change in a given month in response to a surge in part-time hours or as your business grows. *You should review your health plans and changing obligations under the law with competent benefit advisers. NRF provides this **Health Mandate Cost Calculator** as a service to its members and the public to provide general information and it is not nor is it intended to provide legal advice.*

Follow the "Let's Start" link to review your potential mandate penalty liabilities.

Let's Start

In order to determine potential penalties your company may be liable for we need to determine how many full time employees you currently employ.

Please enter the number of full-time employees<sup>2</sup> you employ.

How many total hours do your part-time employees work in a month?

Enter the total number of hours worked by all of your part-time workers for one month. The calculator determines the number of full time equivalents [total part-time hours/month divided by 120] which in turn is added to the number of full-time employees to determine whether you meet the 50-employee penalty threshold.

Reset Calculator:



- Health Care - Regulations and Regulatory Issues
- NRF and Coalition Letters to Lawmakers
- Health Care Reform Interviews
- Blog Posts

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<sup>1</sup>From the Patient Protection and Affordable Care Act of 2010 (PPACA).

<sup>2</sup>Full-time employees work 30 hours or more per week on monthly average.

<sup>3</sup>No penalty is paid on part-time employees or full-time employee equivalents.

<sup>4</sup>If total employee cost exceeds 9.5% of employee's family income, then the employee is eligible for subsidized coverage in the new state-based Exchange purchasing group.

<sup>5</sup>The first 30 full-time employees are exempt from the mandate penalty.

<sup>6</sup>The penalty amount is the lesser of the actual penalty or \$2,000 times all full-time employees minus the first 30.



Please enter the number of full-time employees<sup>2</sup> you employ.

How many total hours do your part-time employees work in a month?

Enter the total number of hours worked by all of your part-time workers for one month. The calculator determines the number of full time equivalents [total part-time hours/month divided by 120] which in turn is added to the number of full-time employees to determine whether you meet the 50-employee penalty threshold.

## Results

Your total number of full-time employee equivalents<sup>3</sup> is **56**.

## Results

If you **do not** provide coverage to full-time employees, and **at least one** receives an Exchange Subsidy<sup>4</sup>, then your total annual penalty owed to the Federal Government will be **\$10,000<sup>5</sup>**.

If you **do** offer qualified coverage to full-time employees, but one or more receives an Exchange Subsidy<sup>4</sup>, then your penalty for each subsidy-recipient employee will be **\$3,000<sup>5</sup>**.

Listed below are possible penalties based on the information you have provided.

Subsidy Recipients	1	3	8	17	26
% of full time Workforce	3%	9%	23%	49%	74%
Penalty	\$3,000	\$9,000	\$10,000	\$10,000	\$10,000

Reset Calculator:

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many full time employees you currently employ.

Please enter the number of full-time employees<sup>2</sup> you employ.

## Results

If you **do not** provide coverage to full-time employees, and **at least one** receives an Exchange Subsidy<sup>4</sup>, then your total annual penalty owed to the Federal Government will be **\$9,940,000<sup>5</sup>**.

If you **do** offer qualified coverage to full-time employees, but one or more receives an Exchange Subsidy<sup>4</sup>, then your penalty for each subsidy-recipient employee will be **\$3,000<sup>5</sup>**.

Listed below are possible penalties based on the information you have provided.

Subsidy Recipients	250	500	1250	2500	3750
% of full time Workforce	5%	10%	25%	50%	75%
Penalty	\$750,000	\$1,500,000	\$3,750,000	\$7,500,000	\$9,940,000

Reset Calculator:

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# Key Future Considerations

- The retail and restaurant industries are particularly vulnerable to the new reform – shortened waiting periods, punitive mandates.
- Will retailers and other businesses opt for the lesser cost of the penalty mandate over providing care after 2014?
- What are the employee relations / FICA tax / publicity ramifications of not providing coverage?
- Could failure of the employer-based health care system lead to a future single-payer health system with a VAT tax to fund it?

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