

Benefits

BUZZ

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What Happens if the ACA Employer Mandate is Repealed?

The Affordable Care Act (ACA) requires applicable large employers (ALEs) to offer affordable, minimum value health coverage to their full-time employees in order to avoid possible penalties. Because this employer mandate has been criticized as burdensome for employers and an impediment to business growth, its repeal has been a central part of Republican plans to repeal and replace the ACA.

If the employer mandate is repealed, many ALEs will likely want to modify their plan designs to go back to pre-ACA eligibility rules (for example, requiring employees to have a 40-hour-per-week work schedule to be eligible for benefits).



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Employers may also consider increasing the amount that employees are required to contribute for group health plan coverage.

Current Status of the Employer Mandate

At this time, the ACA, including its employer mandate rules, remains intact as a federal law. Proposed legislation to repeal and replace the ACA is currently making its way through the federal legislative process. The current bill that is being considered by Congress, which is referred to as the American Health Care Act (AHCA), would reduce the penalties for failing to comply with the ACA's employer mandate to zero beginning in 2016. This change would effectively repeal the ACA's employer mandate (although it would technically still exist).

Action Steps

The AHCA's future is still uncertain. The bill has been amended several times and will likely be subject to additional revisions in the near future. Since the bill has not been signed into law, the ACA's employer mandate, and its penalty provisions, remain intact. For more information on complying with the employer mandate rules, contact Baldwin Krystyn Sherman Partners.

DID YOU KNOW?

On May 5, 2017, the IRS issued [Revenue Procedure 2017-36](#) to index the contribution percentages in 2018 for purposes of determining affordability of an employer's plan under the ACA. These updated affordability percentages are effective for taxable years and plan years beginning Jan. 1, 2018.

This is the first time since these rules were implemented that the affordability contribution percentages have been reduced. Due to this change, employers may need to reduce their employee required contributions for 2018 to meet the adjusted percentage.

House Passes Changes to DOL Overtime Rule

In May, the House of Representatives passed the Working Families Flexibility Act (also known as [H.R. 1180](#)). If approved, H.R. 1180 would authorize private employers to offer compensatory time off instead of overtime pay for nonexempt employees who work more than 40 hours per week. H.R. 1180 still needs approval from the Senate and the executive branch before it becomes law.

Specifically, H.R. 1180 proposes that compensatory time off be calculated at the rate of **1.5 hours** of compensatory time off for every hour of overtime work. As it stands, H.R. 1180 would expire within **five years** of its enactment. In addition, the bill would limit the amount of compensatory time off eligible employees may receive to **160** hours.

However, because H.R. 1180 is not yet a law, no action steps are currently required of any employers.