



SMALL BUSINESS  
LEGISLATIVE  
COUNCIL

# SBLC REPORT

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## **EMPLOYER MANDATE**

The Administration has made a major announcement regarding the imposition of penalties on “large employers” that do not provide health care to their employees in 2014 or do not provide adequate coverage – the penalties will not be imposed until 2015. (Large employers have 50 or more full time employees.)

While the official regulatory documents have to be filed, the Department of Treasury has posted the following on their website, so large employers can take this to the bank:

### ***Continuing to Implement the ACA in a Careful, Thoughtful Manner***

*By: Mark J. Mazur  
7/2/2013*

*Mark J. Mazur is the Assistant Secretary for Tax Policy at the U.S. Department of the Treasury*

*Over the past several months, the Administration has been engaging in a dialogue with businesses - many of which already provide health coverage for their workers - about the new employer and insurer reporting requirements under the Affordable Care Act (ACA). We have heard concerns*

*about the complexity of the requirements and the need for more time to implement them effectively. We recognize that the vast majority of businesses that will need to do this reporting already provide health insurance to their workers, and we want to make sure it is easy for others to do so. We have listened to your feedback. And we are taking action.*

*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. Just like the Administration’s effort to turn the initial 21-page application for health insurance into a three-page application, we are working hard to adapt and to be flexible about reporting requirements as we implement the law.*

*Here is some additional detail. The ACA includes information reporting (under section 6055) by insurers, self-insuring employers, and other parties that provide health coverage. It also requires information reporting (under section 6056) by certain employers with respect to the health coverage offered to their full-time employees. We expect to publish proposed rules implementing these provisions this summer, after a dialogue with stakeholders - including those responsible employers that already provide their full-time work force with coverage far exceeding the minimum employer shared responsibility requirements - in an effort to minimize the reporting, consistent with effective implementation of the law.*

*Once these rules have been issued, the Administration will work with employers, insurers, and other reporting entities to strongly encourage them to voluntarily implement this information reporting in 2014, in preparation for the full application of the provisions in 2015. Real-world testing of reporting systems in 2014 will contribute to a smoother transition to full implementation in 2015.*

*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.*

*During this 2014 transition period, we strongly encourage employers to maintain or expand health coverage. Also, our actions today do not affect employees' access to the premium tax credits available under the ACA (nor any other provision of the ACA).*

#### ***NOT SAID***

This begs the question about individual penalties. If the employer is not required to provide coverage until 2015, how can you assess penalties on individuals if they do not have coverage? And in that case, you are asking for complications if you “waive” the penalty for individuals who work for a large employer but not for other individuals.

SBLC has been saying for months that we thought there would be a penalty “amnesty” passed by Congress in 2015 for individuals when Congress saw how many millions of taxpayers did not comply in time with the individual mandate and did not realize their exposure until they filed their returns for the 2014 tax year in 2015.

Now, individuals have an additional reason to say, “I didn’t

get coverage because my employer said they would provide it in 2015.” And there is no way you will be able to say individuals have to figure out whether their employers are large employers that have waited before determining whether they should get coverage for themselves in 2014 to avoid the individual penalty.

So we are betting another announcement will have to be made before the end of the year about the individual mandate. And that it will be an across the board delay for all individuals. Stay tuned.