

Employer Mandate Penalties: Calculations



How to calculate the healthcare law’s employer mandate penalties, plus some general observations on the mandate’s incentives:

[1] A business owes an employer mandate penalty ONLY if it meets two conditions.

- If it has 50 or more full-time employees or full-time equivalents. Each 120 hours per month of part-time labor counts as a full-time equivalent. (Rules for determining the number of employees and part-time hours are complex, so you’ll need help from an accountant.)
- If one or more of its employees receive premium credits (government subsidies) to help purchase health insurance in the exchange.

[2] An employee ONLY receives a premium subsidy if he meets two conditions.

- The employee’s household income must be less than 400% of the Federal Poverty Level (FPL), which varies with family size. For a family of four, 400% FPL = \$88,200. Household income includes the income of the employee’s spouse and of other dependent members of the household.
- The employee’s portion of the insurance premium on the employer’s plan must exceed 9.5% of the employee’s household income.

[3] If a business DOES owe an employer mandate penalty, the calculations are as follows:

- If the business DOESN’T provide health insurance, its annual penalty equals {the total number of employees in the firm (subsidized and unsubsidized) minus 30} x {\$2,000}. In the table below, in [S3] and [S4], the 50-employee firm owes \$40,000 = (50-30) x \$2,000.
- If the business DOES provide health insurance, its annual penalties equal THE LESSER OF {the number of subsidized employees} x {\$3,000} OR {the number of employees in the firm (subsidized and unsubsidized) minus 30} x \$2,000. In [S4], it pays \$6,000 (the lesser of \$6,000 and \$40,000). In [S6], it pays \$42,000 (the lesser of \$75,000 and \$42,000).

[4] Observations from nine scenarios

- #1 and #2: Unless the business has 50 or more full-time employees or FTEs AND has at least one subsidized employee, there are no penalties.
- #1 vs. #2: The employer mandate penalizes a non-providing firm \$2,000 for creating an additional job.
- #3 vs. #4: The employer mandate DOES NOT penalize a non-providing firm for having more subsidized employees.
- #3 vs. #4: The employer mandate penalizes a providing firm with few subsidized employees \$3,000 for each additional subsidized employee.
- #3 vs. #5: The employer mandate DOES NOT penalize a providing firm with few subsidized employees for creating an additional job – as long as the new employee is not subsidized.
- #6, #7, #8: A providing firm with many subsidized employees pays the same penalty as a non-providing firm of the same size.
- #6 vs. #7: For a providing firm with many subsidized employees, the employer mandate penalizes the firm \$2,000 for creating an additional job.
- #6 vs. #8: For a providing firm with many subsidized employees, the employer mandate DOES NOT penalize the firm for having more subsidized employees.
- #6 vs. #9: A firm can reduce its penalties tremendously by replacing full-time employees with part-timers.

Scenarios	#1	#2	#3	#4	#5	#6	#7	#8	#9
Total number of employees	49	50	50	50	51	51	52	51	31
Number of unsubsidized employees	48	50	49	48	50	26	27	25	6
Number of subsidized employees	1	0	1	2	1	25	25	26	25
Number of full-time equivalents (part-time hours in a month divided by 120)	0	0	0	0	0	0	0	0	20
Penalty for a business that DOES provide health insurance	\$0	\$0	\$3,000	\$6,000	\$3,000	\$42,000	\$44,000	\$42,000	\$2,000
Penalty for a business that DOES NOT provide health insurance	\$0	\$0	\$40,000	\$40,000	\$42,000	\$42,000	\$44,000	\$42,000	\$2,000