IRS Rules Ease Compliance With Health Reform Law Employer Mandate

The massive $2,000-per-full-time-employee penalty will not apply so long as employers offer coverage to at least 95 percent of their full-time employees and their dependents up to age 26, the IRS said.

Employers will not face massive penalties mandated by the health care reform law if they do not offer coverage to all their full-time employees, according to newly proposed Internal Revenue Service regulations.

The massive $2,000-per-full-time-employee penalty will not apply so long as employers offer coverage to at least 95 percent of their full-time employees and their dependents up to age 26, the IRS said.

Those eagerly awaited regulations, which were issued last week, end more than a year and a half of uncertainty involving a health care reform law provision of crucial importance to employers.

$2,000 penalty

Read literally, the Patient Protection and Affordable Care Act imposes, effective in 2014, a penalty of up to $2,000 per full-time employee on employers with at least 50 employee even if just one full-time employee is not offered coverage, is eligible for a federal premium subsidy, and used the subsidy to buy coverage in a public health insurance exchange.

That prospect alarmed employers. Without regulatory flexibility, there could be situations in which an employer could face the full force of the assessment even though it offered coverage to all, or virtually all, of its full-time employees.

One common situation, benefit experts say, involves employers that do not offer health care coverage to part-time workers working less than 30 hours a week. But in any given month, a part-time employee might work more than an average 30 hours per week. As experts interpret the law, if that employee received a premium subsidy to buy coverage in a state or federal exchange, the assessment would be based on the number of an employer's all full-time employees.

Margin of error allowed

In May 2011, the Treasury Department said the penalty would not apply, so long as "substantially all" full-time employees were offered coverage.

But until last week's regulations, the Treasury Department didn't define what "substantially all" would mean.

That uncertainty is now over.

"After further study and consideration of the comments, the Treasury Department and the IRS believe that they should exercise their administrative authority to allow recognition of a margin of error consistent with an intent to recognize the possibility of inadvertent errors together with the specificity and administrability of a specific percentage, and therefore have concluded that a clear and definitive 95 percent standard would be an administrable and appropriate interpretation of the statutory provision," according to the proposed regulations.

The proposed regulations are "very welcome. They give employers a pretty wide corridor for compliance," said Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, New Jersey.