

**Rae Anne Beaudry**

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**From:** Larry Grudzien, Attorney at Law <larry@larrygrudzien.com>  
**Sent:** Tuesday, August 19, 2014 8:31 AM  
**To:** Rae Anne Beaudry  
**Subject:** Health Reform Questions: Transitional Rules for Employers with 50 to 99 Employees

**From the Desk of**

**Larry Grudzien**  
ATTORNEY-AT-LAW



## **Health Reform Questions - Transitional Rules for Employers with 50 to 99 Employees**

**August 19, 2014**

**Question: My client with 75 full-time employees terminated their group health plan in 2014. When would they be subject to the employer mandate penalty? How is penalty determined?**

**When the employer mandate applies:**

**Answer: January 1, 2015**

The penalty tax applies to "applicable large employers." An applicable large employer is an employer who employed an average of at least 50 "full-time employees" on business days during the preceding calendar year, as provided in Code Section 4980H(c)(2)(A).

For 2015, the final regulations provide an important new transition relief for employers with less than 100 employees. If the following conditions are met, no penalty tax will apply until 2016 for employers with 50 to 99 employees:

**\* Limited Workforce Size.** The employer employs on average at least 50 full-time employees (including full-time equivalent employees) but fewer than 100 full-time employees (including full-time equivalent employees) on business days during 2014. For this purpose, the determination of the number of full-time employees (including full-time equivalent employee) is made in accordance with the otherwise applicable rules for determining status as an applicable large employer.

**\* Maintenance of Workforce and Aggregate Hours of Service.** During the period beginning on February 9, 2014, and ending on December 31, 2014, the employer does not reduce the size of its workforce or the overall hours of service of its employees in order to satisfy the workforce size condition set forth above. A reduction in workforce size or overall hours of service for bona fide business reasons will not be considered to have been made in order to satisfy the workforce size condition.

**\* Maintenance of Previously Offered Health Coverage.** Except as otherwise provided in this subsection, during the coverage maintenance period the employer does not eliminate or materially reduce the health coverage, if any, it offered as of February 9, 2014. For purposes of this section, in no event will an employer be treated as eliminating or materially reducing health coverage if:

**\*\* it continues to offer each employee who is eligible for coverage during the coverage maintenance period an employer contribution toward the cost of employee-only coverage that either (A) is at least 95 percent of the dollar amount of the contribution toward such coverage that the employer was offering on February 9, 2014, or (B) is the same (or a higher) percentage of the cost of coverage that the employer was offering to contribute toward coverage on February 9, 2014;**

**\*\* in the event there is a change in benefits under the employee-only coverage offered, that coverage provides minimum value after the change; and**

**\*\*the employer does not alter the terms of its group health plans to narrow or reduce the class or classes of employees (or the employees' dependents) to whom coverage under those plans was offered on February 9, 2014. For purposes of this requirement, the term coverage maintenance period means (1) for an employer with a calendar year plan, the period beginning on February 9, 2014, and ending on December 31, 2015, and (2) for an employer with a non-calendar year plan, the period beginning on February 9, 2014, and ending on the last day of the plan year that begins in 2015.**

**\* Certification of Eligibility for Transition Relief.** The applicable large employer certifies on a prescribed form filed with the IRS that it meets the eligibility requirements set forth above.

**Since the employer terminated its plan in 2014, it is not eligible for the special transitional rule and will be subject to the employer**

**mandate penalty on January 1, 2015.**

**Determination of the Employer Mandate Penalty Amount:**

Generally, the employer mandate penalty under Code Section 4980H(a) is equal to the number of all full-time employees (excluding 30 full-time employees) multiplied by 1/12 of \$2,000 for each calendar month.

Since the employer terminated its plan in 2014, it is also not eligible to use a transitional rule that increased the 30 employee reduction to 80 employees.

**For 2015, the employer would be subject to a penalty of  $75 - 30 = 45$  X \$2,000 or \$90,000.**

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**For More Information:**

**If you have any comments or questions regarding any of the above information, please do not hesitate to call me at (708) 717-9638 or e-mail me at [larry@larrygrudzien.com](mailto:larry@larrygrudzien.com)**

**Thank You,**

**Larry Grudzien  
Attorney-At-Law**

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