



ACA COMPLIANCE BULLETIN

IRS CONFIRMS ACA MANDATE PENALTIES STILL EFFECTIVE

HIGHLIGHTS

- > The IRS clarified that both the individual and employer mandates continue to apply.
- > President Trump's executive order does not change the law. Taxpayers are still required to follow the ACA, including paying any applicable penalties.
- > Changes to ACA requirements must be made by Congress through the legislative process.

IMPORTANT DATES

April 14, 2017

The IRS issued letters clarifying the executive order's impact on the ACA's employer mandate.

June 20, 2017

The IRS issued a letter clarifying the executive order's impact on the ACA's individual mandate.

OVERVIEW

The Internal Revenue Service (IRS) Office of Chief Counsel has recently issued several information letters regarding the Affordable Care Act's (ACA) individual and employer mandate penalties. These letters clarify that:

- > **Employer shared responsibility penalties** continue to apply for applicable large employers (ALEs) that fail to offer acceptable health coverage to their full-time employees (and dependents); and
- > **Individual mandate penalties** continue to apply for individuals that do not obtain acceptable health coverage (if they do not qualify for an exemption).

These letters were issued in response to confusion over President Donald Trump's executive order directing federal agencies to provide relief from the burdens of the ACA.

ACTION STEPS

These information letters clarify that the ACA's individual and employer mandate penalties still apply. Individuals and ALEs must continue to comply with these ACA requirements, including paying any penalties that may be owed.

BACKGROUND

The ACA's **employer shared responsibility rules** require ALEs to offer affordable, minimum value health coverage to their full-time employees or pay a penalty. These rules, also known as the "employer mandate" or "pay or play" rules, only apply to ALEs, which are employers with, on average, at least 50 full-time employees, including full-time equivalent employees (FTEs), during the preceding calendar year. An ALE may be subject to a penalty only if one or more full-time employees obtain an Exchange subsidy (either because the ALE does not offer health coverage, or offers coverage that is unaffordable or does not provide minimum value).

The ACA's **individual mandate**, which took effect in 2014, requires most individuals to obtain acceptable health insurance coverage for themselves and their family members or pay a penalty. The individual mandate is enforced each year on individual federal tax returns. Individuals filing a tax return for the previous tax year will indicate, by checking a box on their individual tax return, which members of their family (including themselves) had health insurance coverage for the year (or qualified for an exemption from the individual mandate). Based on this information, the IRS will then assess a penalty for each nonexempt family member who doesn't have coverage.

On Jan. 20, 2017, President Trump signed an executive order intended to "to minimize the unwarranted economic and regulatory burdens" of the ACA until the law can be repealed and eventually replaced. The executive order broadly directs the Department of Health and Human Services and other federal agencies to waive, delay or grant exemptions from ACA requirements that may impose a financial burden. However, the executive order does not include specific guidance regarding any particular ACA requirement or provision, and does not change any existing regulations.

IRS Information Letters

Office of Chief Counsel issued a series of information letters clarifying that the ACA's individual and employer mandate penalties continue to apply.

- > Letter numbers [2017-0010](#) and [2017-0013](#) address the employer shared responsibility rules.
- > Letter number [2017-0017](#) addresses the individual mandate.

According to these letters, the executive order does not change the law. The ACA's provisions are still effective until changed by Congress, and taxpayers are still required to follow the law, including paying any applicable penalties.

More Information

For additional information on the ACA Executive Order and the current tax filing season, please visit www.irs.gov/tax-professionals/aca-information-center-for-tax-professionals.

This Compliance Bulletin is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

