

# NAR Frequently Asked Questions

## Health Insurance Reform

### EMPLOYER MANDATES/RESPONSIBILITY PROVISIONS

#### Q-1: What's an "employer mandate"?

**A:** An "employer mandate" is a requirement that most employers provide and contribute to the cost of health insurance for their employees.

#### Q-2: Does the Act contain an employer mandate?

**A: Yes.** While the Acts do not include an employer mandate in the strictest sense of the term, the Acts do stipulate that employers with more than 50 employees:

- Who do not offer insurance coverage and have at least one Full Time Employee (FTE) that receives a premium tax credit or cost-sharing subsidy will be subject to a penalty of \$2000 times the number of FTE;
- Who *offer coverage* but have at least one FTE that enrolls in the Exchange and receives a premium tax credit pay penalties of \$3,000 per employee receiving a premium credit.

In both cases the first 30 workers employed by the employer are disregarded in calculating the amount of any penalty.

#### Q-3: What's the purpose or rationale of an employer mandate?

**A.** In today's market, most health insurance coverage is provided by employers. Rather than create the upheaval that would accompany abandoning this model, Congress chose to 'maintain and, where possible, build upon the nation's employer-employee system of health insurance. Employers, particularly larger employers, are able to negotiate better prices and spread risks more broadly than individuals. Thus, the employer mandate is another mechanism that can create pressure to keep health care costs as low as possible. The mandate is also a means of ensuring that employers that offer employee coverage currently do not "dump" their employees into the Exchange, or if they do, that the additional cost imposed on the federal government is repaid.

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### **Q-4: Are all employers subject to the employer mandate?**

**A: No.** Firms with 50 or fewer employees are not subject to the employer mandate.

### **Q-5: Are independent contractors affiliated with a firm considered employees for purposes of the employer mandate?**

**A: No.**

### **Q-6: Is any assistance available if my small business simply can't afford to provide and contribute to the cost of insurance for its employees?**

**A: Yes.** The Act includes a new tax credit of up to 50% of the employer's contribution for small employers who provide coverage and contribute to their employees' health insurance premiums. Firms with 10 or fewer employees and an average annual per-employee wage less than \$50,000 would be eligible for the full tax credit. Employers with no more than 25 employees would be eligible for a partial credit.

The amount of the credit to a firm will be based on a complex formula that provides the largest amount of credit to the smallest firms with the lowest wages. The credit could be claimed for a maximum of six years (the four years between 2010-2013, plus two years from 2014 and thereafter).

### **Q-7: How would an employer mandate be enforced?**

**A:** Like individuals, employers will have to provide proof of coverage and contributions when filing their tax returns. Employers will be required to make an affirmative election that they *will* provide health insurance coverage and to disclose that election to employees.

The Administrator of the health insurance program will specify the format and rules for providing proof of coverage. Any penalties would be paid in conjunction with the employer's income tax filings for the year.