

INDIANA MUNICIPALITIES AND THE PPACA EMPLOYER PENALTIES

Starting in 2014, Indiana municipalities employing at least 50 full-time employees or full-time equivalents will be subject to employer penalties under the Patient Protection and Affordable Care Act (“PPACA”). Under these provisions, if an employer does not offer affordable health coverage that provides a minimum level of coverage to its full-time employees (and their dependents), the employer may be subject to an employer penalty if at least one of its full-time employees receives a premium tax credit for purchasing individual coverage on one of the new insurance exchanges. A full-time employee is defined as an employee who is employed on average at least 30 hours of service per week.

The PPACA imposes two types of employer penalties:

1. The Sledgehammer: If an applicable employer fails to offer health insurance coverage to at least **95%** of its full-time employees (and their dependents), then the employer will be subject to an annual penalty of \$2,000 for each of its full-time employees (minus 30 employees), provided that at least one full-time employee receives a credit through the new insurance exchanges. For example, if a city employs 200 full-time employees, and fails to offer coverage to at least 190 of those full-time employees, the city will be subject to an annual fine of \$340,000.
2. The Mallet: If an applicable employer offers coverage to at least 95% of its full-time employees (and their dependents), but at least one full-time employee receives a premium tax credit to pay for coverage on the new insurance exchanges, then the employer will be subject to an annual penalty of \$3,000 for each of its full-time employees who receive a credit through the exchange. An employee may be eligible for a credit through an exchange if the employer does not offer coverage to that employee or because the coverage that the employer offered that employee was either unaffordable to that employee or did not provide minimum value.

The IRS published guidance in 2012 which permits an employer to utilize a 12-month or shorter measurement (“look-back”) period to determine full-time employee status. If an employee worked an average of 30 hours per week during the measurement period, the employer will treat the employee as full-time during the subsequent stability period.

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