

Benefits

# BUZZ

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**AxisPointe Benefit Advisors**

April 2018

## How to Handle an ACA Penalty Letter

The IRS has begun issuing letters to employers who are not offering health coverage to full-time employees. Under the Affordable Care Act's (ACA) employer shared responsibility rule, applicable large employers must provide affordable health coverage to full-time employees or face stiff penalties.

There are two key provisions to the ACA's employer shared responsibility rule that can trigger thousands of dollars in penalties:

1. Full-time employees must be provided health coverage.
2. That coverage must be adequate and affordable, as specified by the law.

Penalty amounts will depend on the year. Not offering health coverage could cost you between \$2,080 and \$2,320 per full-time employee. If coverage is unaffordable or inadequate, penalties range from \$3,120 to \$3,480 per affected employee.

### Employer Takeaway

Due to continued delays by the IRS, many employers may be surprised to see penalties dating back to 2015.

Receiving a letter does not necessarily mean you will be penalized. There is a response period where you can reply and indicate whether you agree to the fine or contest it.

For instance, an employee who triggers a penalty may have been working part time for a period or simply missed the enrollment deadline. In these types of situations, employers can argue against the penalties and explain themselves. Errors can usually be corrected by resubmitting forms.

Regardless if the penalty is contested or not, responding immediately is considered the best approach for employers. The forms required by the IRS can be complicated and time consuming to fill out, so waiting until the last minute could end up costing you.

Beyond responding immediately, employers are encouraged to speak with a tax or legal advisor on how to proceed if they receive a letter from the IRS.

Please let AxisPointe know if you have any questions about these or any other ACA penalties.

## DID YOU KNOW?

Tax scams are on the rise. Don't be fooled into giving your personal information or tax return to a thief. Scammers have complex methods for tricking individuals, most commonly by impersonating the IRS.

Know that the IRS will never demand immediate payment, request wire transfers, threaten to involve police or ask for credit card information.

[Visit this site](#) for more details on how to avoid being scammed this tax season and how to report scammers.

## The Importance of Plan Document Review

A Recent Supreme Court ruling in [CNH Industrial N.V. v. Reese](#) exemplifies why carefully reviewing plan documents—like a collective bargaining agreement (CBA) or summary plan document (SPD)—is so important.

Employees claimed that the language of the agreement suggested benefits were vested for life, but the CBA itself listed an expiration date.

The court conceded that if the agreement used ambiguous language like “lifetime” or “for life,” that would change the situation. However, including an expiration date and avoiding such language makes it clear that the benefits are limited.

With these case details in mind, carefully review your plan documents, like your SPD or any other documents that discuss health benefits. Make sure the language you use is not ambiguous and clearly lays out your intentions.

Speak with AxisPointe for guidance.



# HR Brief

Human Resources tips brought to you by  
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## Compensable Time: What You Need to Know

The Fair Labor Standards Act (FLSA) requires employers to pay their employees for all hours they are “suffered or permitted to work.” These hours are known as “work hours” or compensable time.

### What is compensable time?

Compensable time includes all hours during which an individual is actually performing productive work and all hours an employee is required by his or her employer to remain available for the next assignment. Compensable time does not include periods where an individual is relieved of all obligations and is free to pursue his or her own interests.

### How is compensable time calculated?

To determine how much of an employee’s time is compensable time, employers must determine whether the employee is on duty, and how rest periods or certain industry extended hours affect an employee’s hours of work. The U.S. Department of Labor’s (DOL) [Wage and Hour Division](#) enforces work hour standards.

### What are the penalties for noncompliance?

FLSA violations are punishable by a fine of up to \$10,000, imprisonment for up to six months or both. In addition, these violations are subject to civil liability in state or federal courts and employers may be required to compensate employees for unpaid wages, liquidated damages, attorneys’ fees, court costs and any other amount a court sees fit to impose. Fee amounts may increase for repeat and willful offenders.

Employers may not discharge or discriminate in any manner against an employee who files a complaint or cooperates with the DOL in an investigation or proceeding.

### Questions?

Contact AxisPointe for more information on wage payment and work hour laws.

## DID YOU KNOW?

More than 60 percent of employee turnover is voluntary, according to a recent ADP Research Institute [report](#). This report allows employers to understand the workplace characteristics that are most likely to lead to employee turnover.

If you are experiencing high turnover, chances are you are experiencing high losses as well. It costs nearly 20 percent of an employee’s annual salary to replace an employee. Contact us today to learn more about valuable retention strategies to implement at your company.

## FBI Warns of Direct Deposit Phishing Attacks

The FBI warns that cyber criminals are posing as HR employees and using a phishing scam to get employees to provide the scammer with access to the company’s self-service payroll platform.

When employees click on the link within the scammer’s email and provide the requested information, they unknowingly provide the scammer with their W-2 and pay stub information. The scammer can then change direct deposit instructions, passwords, credentials and email addresses linked to the account to avoid detection. In the majority of cases, employers were not aware of anything until workers reported they weren’t receiving their wages.

To learn how you can prevent this from happening at your organization, please view the [FBI’s suggestions](#) or request employee cyber security training materials from AxisPointe today.

