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Obamacare and the Employer Mandate: Cutting Jobs and Wages

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One of the central goals of the Patient Protection and Affordable Care Act (PPACA)[1] was to increase the number of individuals with health insurance coverage. To encourage employers to offer coverage, the new law creates a tax penalty on firms with more than 50 workers that fail to provide "adequate" coverage for their employees. The result is government intrusion into voluntary arrangements made between employer and employee.

The cost of the tax penalty will ultimately be borne by workers (lower wages and fewer jobs), shareholders (lower profits), and consumers (higher prices).[2]

Summary. Section 1513 of PPACA amends the Internal Revenue Code of 1986 by adding "Section 4980H. Shared Responsibility for Employers Regarding Health Coverage." This section imposes tax penalties on certain firms that fail to offer adequate health care coverage to their employees. Beginning in 2014, all companies with 50 or more full-time employees (or their equivalent)[3] that do not offer "qualified" health insurance or pay at least 60 percent of premiums to their workers will face financial penalties if at least one employee receives subsidized coverage in an exchange. The annual tax penalty will be equal to $2,000 for every full-time employee (or their equivalent) beyond the first 30 workers.

A business that offers health insurance to its employees can also face tax penalties. Companies that offer insurance may have employees who qualify for a tax credit in the health insurance exchanges. Employees can qualify for a credit if their personal contribution to their premium is deemed "unaffordable."[4] If one of a company's workers enrolls in a plan through an exchange and qualifies for a subsidy, the company will face a penalty. The penalty will be the lesser of $3,000 per employee receiving a subsidy or $2,000 for each of their total full-time employees, again exempting the first 30 employees.

The government will enforce the employer mandate by requiring businesses to submit additional information to the Internal Revenue Service. When a business files its tax return each year, it will be required to include the names of each full-time employee and pertinent information about the health insurance plans offered.

Impact. The employer mandate will change the nature of the employer–employee relationship, as employers will want detailed household information, such as family size and income for each family member, from each of their employees. The economic effects of the employer mandate will likely be lower profits for many businesses, lower wages for millions of workers, increased unemployment, and higher prices for many goods and services.

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Lower Profits and Lower Wages. According to economic theory, workers earn compensation equal to the added value they bring their employers. Employers compensate workers in two primary ways: wages and benefits. If employers are required to increase the amount of compensation that workers receive in the form of health insurance benefits, then wages will necessarily fall. Productivity gains, not acts of Congress, are required to increase worker compensation over time.

The Congressional Budget Office (CBO) estimates that the employer mandate will cost businesses $52 billion in tax penalties from 2014 to 2019.[5] In addition to the tax penalties faced by businesses that offer "inadequate" coverage to their employees, businesses that conform to the mandate will face compliance costs. Therefore, many businesses will have less profit with which to compensate their employees and shareholders, resulting in lower wages for employees and diminished portfolios for shareholders.

Increased Unemployment. These increased costs that PPACA places on businesses will in turn reduce business growth and hiring. The CBO predicts that PPACA will reduce the amount of labor being used in the economy by approximately one-half of 1 percent.[6] This equates to about 700,000 additional Americans being unemployed.[7]

Many individuals earning close to the minimum wage will not be worth hiring if the employer is required to offer them health insurance coverage. Research by Katherine Baicker and Helen Levy finds that a third of uninsured workers earn within $3 of the minimum wage and therefore have a higher risk of losing their jobs because of an employer mandate. Furthermore, these workers are disproportionately likely to be high school dropouts, minority, or female.[8]

Higher Prices for Goods and Services. The employer mandate and the corresponding tax penalty for noncompliance raise the costs of doing business. Economic theory shows that who actually pays the tax is determined by the market forces of supply and demand, not by where Congress "places" the tax. Therefore, a significant part of the cost increase will be passed on to businesses' customers in the form of higher prices.

Invasion of Worker Privacy. The mandate's penalty provisions mean that one employer can be fined

1. Congress cannot build sound market-based health care reform on the foundation of a flawed health care law. Therefore, the health care law must be repealed in its entirety.

   The House of Representatives has taken a major step towards full repeal of the Patient Protection and Affordable Care Act (PPACA—otherwise known as "Obamacare"). Until full repeal occurs, Congress must continue to focus on the core failures and consequences of PPACA and block its implementation to allow time to achieve repeal and lay the groundwork for a new market-based direction for health care reform.
2. Patient Protection and Affordable Care Act of 2010, Public Law 111–148, and Health Care and Education Reconciliation Act of 2010, Public Law 111–152.
3. A full-time employee is defined as an employee who is employed on average for at least 30 hours of service per week. According to the language in H.R. 4872 (the reconciliation bill), "in addition to the number of full-time employees for any month otherwise determined, include for such month a number of full-time employees determined by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120."
4. "Unaffordable" coverage is defined as coverage amounting to less than 60 percent of the costs of benefits or the employee's share of the premium exceeding 9.5 percent of his or her income.
5. Douglas W. Elmendorf, Director, Congressional Budget Office, letter to Nancy Pelosi, Speaker, U.S. House of Representatives, March 20, 2010, p. 22, at *http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf* (January 11, 2011).
6. Congressional Budget Office Director's Blog, "Economic Effects of the March Health Legislation," at *http://cboblog.cbo.gov/?p=1478* (January 11, 2011).
7. There are about 140 million individuals employed in the civilian labor force. A half-percent loss of 140 million jobs is equal to 700,000 jobs. Bureau of Labor Statistics, "Table A-1: Employment Status of the Civilian Population by Sex and Age," at *http://www.bls.gov/news.release/empsit.t01.htm* (January 11, 2011).
8. Katherine Baicker and Helen Levy, "Employer Health Insurance Mandates and the Risk of Unemployment," National Bureau of Economic Research *Working Paper* No. 13528, October 2007, at *http://www.nber.org/papers/w13528* (January 11, 2011).

if a worker qualifies for a subsidy on the newly created health insurance exchanges due to changes in personal circumstances of a sensitive nature, such as a divorce or a spouse's lost coverage. For example, if company A lays off the spouse of an employee of company B, company B might be subject to a $3,000 penalty if the employee's household income drops to the point where the family's contribution to health insurance is "unaffordable." The company will therefore have an incentive to request information regarding all sources of household income, as that information will be pertinent to the decision to offer health insurance. The result will be a loss of worker privacy.

A New Direction. Under the new health care law, the government will now dictate more of the terms of a worker's compensation package. Many workers, shareholders, and consumers will be hurt by this provision. Furthermore, it should be up to the worker and his or her employer—not the government—to determine the size and structure of the worker's compensation package.

Instead of penalizing employers, Congress should give them more options, including allowing them to offer a defined contribution option to their employees. Today, employer-based coverage is an all-or-nothing proposition: Either an employer offers health insurance package or it offers nothing.

Under a defined contribution model, employers would be able to provide a direct financial contribution to their employees for the purchase of health insurance. This option would promote personal ownership and portability for workers, as their insurance plans would not be directly tied to their place of employment, so they could keep their plans as they transition to other jobs. Furthermore, a defined contribution model would allow employers to budget and plan with greater certainty.

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