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Ken Berry, JD • Feb. 09, 2014

[This is the fourth in a series of articles on new developments relating to the Patient Protection and Affordable Care Act of 2010 (aka "Obamacare").]
See Also:

- Equality in Employer Health Care Plans Delayed
- IRS Proposes Fine for Noncompliance with Health Insurance Mandate
- IRS Faces Customer Service Challenges Under Obamacare

It's going to take time – perhaps more than initially anticipated – for the government to work through all the twists and turns in the Patient Protection and Affordable Care Act (the PPACA), the massive health care law known as "Obamacare." Along the way, certain tweaks and modifications are likely to be required.

In this spirit, on February 4 the House Ways & Means Committee voted by a 23-to-14 margin along party lines to pass the "Save American Workers" tax bill. This proposed legislation addresses the "shared responsibility" mandate for health insurance coverage. But questions remain whether the measure will accomplish its main objectives.

Under the shared responsibility rules in Obamacare, employers with 50 or more full-time employees (FTEs) are required to provide minimal essential health insurance coverage to eligible workers. Otherwise, the employer may be assessed a stiff tax penalty of $2,000 per month per employee, although part-time employees aren't counted in the calculation. The amount of the monthly penalty will be indexed in

changes the definition of an FTE to someone who works 40 hours a week or more. The theory is that this change will protect workers who are in danger of having their hours cut back by mid-sized employers looking to duck under the 50-worker threshold.

The new bill was sponsored by Rep. Todd Young (R-Ind.). He pointed out to the committee that school districts, local governments, retailers and restaurants in his home state of Indiana are already reducing worker hours in anticipation for the mandate next year. "An employee seeing their hours cut from 39 hours to 29 hours will lose an entire week's paycheck over the course of a month," said Young. He referred to these workers as "Obamacare 29ers."

But Democrats on the tax-writing committee took an opposite view. They argue that the bill will in fact prove detrimental to workers because it will be even easier for employers to avoid the shared responsibility rules. If the bill is enacted and an employer reduces a worker's below 40 hours, the worker will no longer be treated as an FTE. In addition to lost wages, the worker won't be eligible for the coverage. Similarly, those who currently work 30 to 40 hours per week may be denied coverage under this change. Many employers use a 35-hour workweek for employees to be treated as "full-time" for other purposes.

Budget analysts have not yet figured out how the bill might affect federal spending requirements, taxes or the debt ceiling controversy. But the matter is likely to be resolved quickly. The Ways and Means Committee gave the bipartisan Joint Committee on Taxation scant time – one short week — to analyze the bill. We will keep you posted.