The Free Rider Provision: A One-page Primer

Calculating the healthcare law's free rider tax penalties for businesses with one or more employees receiving insurance subsidies. Understanding the free-rider provision's bottom-line effects.

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[1] A business owes a free-rider penalty ONLY if it meets two conditions.

- **If it has more than 50 full-time employees or full-time equivalents.** Each 120 hours per month of part-time labor counts as a full-time equivalent.
- **If one or more of its employees receive premium credits** (government subsidies) to help purchase health insurance in the exchange.

[2] An employee ONLY receives a premium subsidy if he meets two conditions.

- **The employee's household income must be less than 400% of the Federal Poverty Level** (FPL), which varies with family size. For a family of four, 400% FPL = $88,200. Household income includes the income of the employee's spouse and of other dependent members of the household.
- **The employee's portion of the insurance premium on the employer's plan must exceed 9.5% of the employee's household income**.

[3] If a business DOES owe a free-rider penalty, the calculations are as follows:

- **If the business DOESN'T provide health insurance,** its annual penalty equals {the total number of employees in the firm (subsidized and unsubsidized) minus 30} x {$2,000}. In the table below, in **[S3]** and **[S4]**, the 51-employee firm owes $42,000 = (51-30)x$2,000.
- **If the business DOES provide health insurance,** its annual penalties equal THE LESSER OF {the number of subsidized employees} x {$3,000} OR {the number of employees in the firm (subsidized and unsubsidized) minus 30} x $2,000. In **[S4]**, it pays $6,000 (the lesser of $6,000 and $42,000). In **[S6]**, it pays $44,000 (the lesser of $75,000 and $44,000).

[4] Observations from the table

- **[S3] vs. [S5]:** For a non-providing firm, the free rider provision penalizes the firm $2,000 for creating an additional job.
- **[S3] vs. [S4]:** For a non-providing firm, the free rider provision DOES NOT penalize the firm for having more subsidized employees.
- **[S3] vs. [S4]:** For a providing firm with few subsidized employees, the free-rider provision penalizes the business $3,000 for each additional subsidized employee.
- **[S3] vs. [S5]:** For a providing firm with few subsidized employees, the free-rider provision DOES NOT penalize the business for creating an additional job – as long as the new employee is not subsidized.
- **[S6], [S7], [S8]:** A providing firm with many subsidized employees pays the same penalty as a non-providing firm of the same size.
- **[S6] vs. [S7]:** For a providing firm with many subsidized employees, the free rider provision penalizes the firm $2,000 for creating an additional job.
- **[S6] vs. [S8]:** For a providing firm with many subsidized employees, the free rider provision DOES NOT penalize the firm for having more subsidized employees.
- **[S6] vs. [S9]:** A firm can reduce its penalties tremendously by replacing full-time employees with part-timers.
- **[S1] and [S2]:** Unless the business has over 50 full-time employees or FTEs AND has at least one subsidized employee, there are no penalties.

Scenarios	[S1]	[S2]	[S3]	[S4]	[S5]	[S6]	[S7]	[S8]	[S9]
Total employees	50	51	51	51	52	52	53	52	32
# of Unsubsidized employees	49	51	50	49	51	27	28	26	7
# of Subsidized employees	1	0	1	2	1	25	25	26	25
# of Full-time equivalents (part-time hours in one month divided by 120)	0	0	0	0	0	0	0	0	20
Penalty for a business that DOES provide health insurance	$0	$0	$3,000	$6,000	$3,000	$44,000	$46,000	$44,000	$4,000
Penalty for a business that DOES NOT provide health insurance	$0	$0	$42,000	$42,000	$44,000	$44,000	$46,000	$44,000	$4,000