

# Court Ruling Hamstrings IRS Enforcement of ACA Employer Mandate

## Labor & Employment Law Update

By Rebecca Bush and Kevin Kleine on May 20, 2025

On April 10, 2025, a federal court in Texas issued an opinion in the case of *Faulk Co. v. Becerra* that significantly impacts how the Affordable Care Act's (ACA) employer mandate can be enforced.

The ruling effectively prevents the Internal Revenue Service (IRS) from assessing penalties against employers that fail to provide affordable, minimum health insurance coverage to their employees as required by the ACA for companies with at least 50 full-time equivalent employees.

### The Court's Decision

The court ruled that before the IRS can assess penalties against employers for ACA violations, employers must first receive a notice/certification from the U.S. Department of Health and Human Services (HHS) through an ACA exchange. Crucially, the court determined that the IRS cannot issue this required notice instead of HHS.

This ruling invalidates a 2013 HHS regulation that had delegated this notification authority to the IRS. The court reasoned that HHS impermissibly transferred its responsibility to the IRS, and that only HHS and the ACA exchange can lawfully issue the required certification.

### The Employer Shared Responsibility Payment (ESRP)

Under the ACA, employers who fail to provide minimum health coverage face an employer shared responsibility payment (ESRP) penalty. This excise tax applies when employees enroll in marketplace health insurance plans AND receive premium tax credits.

The ACA established health insurance exchanges in each state to serve as virtual marketplaces for insurance policies. Through these exchanges, HHS collects information from employers to facilitate enrollment and monitor compliance.

## Implications for Employers

The court's decision creates a significant enforcement gap. Since HHS and the exchange currently lack a system for issuing the required certifications to employers, the IRS cannot assess or impose penalties for ACA violations.

This effectively removes the enforcement mechanism behind the employer mandate. While some employers had already found it more economical to pay penalties rather than provide group health insurance, most companies offer affordable health benefits primarily to remain competitive in attracting and retaining talent.

## What Happens Next?

The case will likely have to continue its way through the appellate process. If the decision is affirmed on appeal, resolving this issue would require either:

1. HHS and the exchange implementing a system to notify employers of ACA violations, or
2. Congressional legislation amending the ACA to authorize the IRS to issue the required certifications.

Both options would face significant hurdles given the current political landscape, including the Trump administration's agency reform initiatives and Republican majorities in Congress.

In the meantime, employers should consult with experienced employee benefits counsel if they receive an ACA violation notice or penalty assessment from the IRS.

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