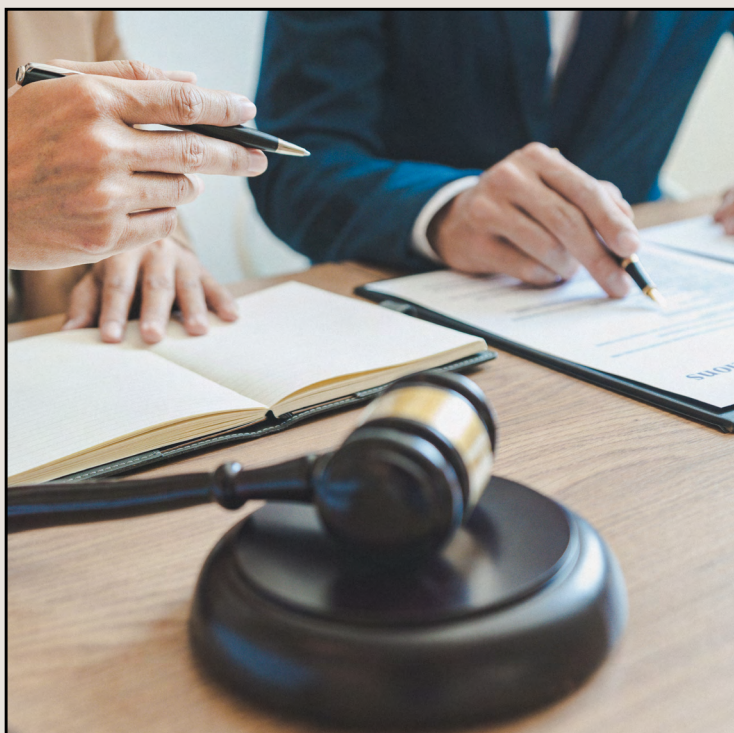


COMPLIANCE CHRONICLE

REGULATIONS | POLICIES | STANDARDS | REQUIREMENTS | LAWS

Navigating the ever-evolving landscape of compliance can be challenging and time-consuming. Warner Pacific is happy to share monthly updates to help your organization stay informed about new requirements and minimize compliance risks. Let us handle the complexities, so you can focus on what matters most – your business.

On April 10, 2025, the U.S. District Court for the Northern District of Texas issued a significant ruling in *Faulk Co. v. Becerra* that could reshape how the Affordable Care Act (ACA) is enforced against employers.



Summary of the Ruling

- The court granted summary judgment in favor of Faulk Company, a Texas-based janitorial services provider, and ordered the IRS to refund \$205,621.71 in penalties assessed under the Employer Shared Responsibility Provisions (ESRP) of the ACA.
- The court found that the IRS lacked the authority to impose the penalty because the Department of Health and Human Services (HHS) had not first issued a **certification** or provided Faulk with a **notice of potential liability and appeal rights**, as required under ACA §1411.
- The court also **invalidated 45 C.F.R. § 155.310(i)**, a regulation that allowed the IRS to assess penalties without HHS involvement.

Legal and Practical Implications

- This ruling challenges the IRS' current enforcement process for the ACA's employer mandate.
- It emphasizes that **due process** – including proper notice and the opportunity to appeal – must be provided before penalties are assessed.
- The decision could **open the door for other employers** to seek refunds or challenge penalties, especially if they were assessed without HHS certification.

Potential for Broader Legal Challenges

- Other employers who have been penalized under the ESRP may now challenge those penalties using the same legal reasoning.
- If more courts agree with the Northern District of Texas, it could undermine the IRS' ability to enforce this part of the ACA.

Increased Legal Uncertainty

- Until the case is appealed and possibly resolved by a higher court (like the Fifth Circuit or even the Supreme Court), there will be **legal uncertainty** about how the ACA's employer mandate can be enforced.

Regulatory and Procedural Revisions

- The ruling emphasized that HHS must certify and notify employers before the IRS can impose penalties. This could force the IRS and HHS to revise their procedures to ensure due process is followed, potentially slowing down enforcement.

Possibility of Appeal

- The federal government is likely to appeal the decision. If overturned, the IRS could regain its authority to impose penalties without HHS certification.
- If upheld, the ruling could **set a national precedent**, reshaping how the ACA is enforced.



If your client's business was penalized under the ACA for not offering health coverage to employees, the recent ruling in *Faulk Co. v. Becerra* may provide grounds to seek a refund or challenge the penalty.

Steps Employers Should Consider If Penalized

1. Review IRS Letter 226-J:

- This letter outlines the proposed ESRP.
- Check whether the IRS issued the penalty **without a certification** from HHS — a key issue in the Faulk case.
- If the penalty was assessed without HHS certification, the employer may have a valid claim.

2. File a Refund Claim:

- IRS Form 843 can be used to request a refund. A detailed explanation referencing the **Faulk ruling and the lack of HHS certification** should be included.
- An employer generally has **three years from the date a return was filed, or two years from the date a penalty was paid**, to request a refund.

3. Consider a Protective Claim:

- If the employer is unsure whether the Faulk ruling will apply to their case, they may be able to file a **protective refund claim** to preserve their rights while the legal landscape evolves.

The information above is informational and does not constitute legal advice. It is essential that employers consult legal or tax counsel experienced in ACA compliance and tax law for further information and assistance in this matter. Brokers should not provide legal advice in this matter or request a refund on behalf of their client.