ACA UPDATE: Measurement Methods and the Use of Payroll Periods

The Shared Responsibility rules under the Affordable Care Act (ACA) require large employers to identify all employees who work an average of 30 or more hours per week and offer affordable, valuable coverage to those employees in order to avoid penalties. The rules outline a “look back” measurement method of 3-12 months or a monthly measurement method for employers to utilize in determining 30+ hour employees. Certain employers may find it administratively easier to use payroll periods rather than calendar months to measure an employee’s hours. The rules for using payroll periods are outlined below:

**Look-Back Measurement Method for On-Going Employees (Using Payroll Periods)**

This method requires an employer to determine an employee’s status by setting a “look-back” measurement period that is at least 3, but not greater than 12 months, to measure an employee’s hours. Once an employer establishes the length of the measurement period, the employer may then choose to use payroll periods to capture hours of service if that employer has payroll periods that are one week, two-weeks, or bi-monthly.

If the employer chooses to use payroll periods, the employer must use payroll periods that include either the first day of the measurement period OR the last day of the measurement period, but never both.

*The regulations include the following as an example:*

An employer using the calendar year as a measurement period could exclude the entire payroll period that included January 1 (the beginning of the year) if it included the entire payroll period that included December 31 (the end of that same year), or, alternatively, could exclude the entire payroll period that included December 31 of a calendar year if it included January 1 of that calendar year. So if the first payroll period after January 1 starts on January 4, the employer could start on that day as long as they include the payroll period that includes the last day of the measurement period (December 31). Doing it this way could mean that the measurement period actually ends on a day after December 31.

**Initial Measurement Periods for New Variable Hour, Seasonal, and Part-time Employees (Using Payroll Periods)**

An employer is allowed to use payroll periods for an initial measurement period. An employer would use an initial measurement period of at least 3 but no more than 12 months. The rule is that an employer must start measuring a new hire by the first of the month starting on or after hire, or, if later, the start of the first payroll period starting on or after the employee start date.

*Example:*

Employer hires new employee on May 20. Employer can wait until the first day of the following month (June 1) to start measuring, or employer can wait until the first day of the payroll period that starts on or after the date of hire. If the next payroll period starts on May 24, then the employer can wait until June 1 to start measuring because it is later. If the next payroll period starts on June 3 then the employer can wait until June 3 to start measuring because that date is later.
Monthly Measurement Method (Weekly Rule)

This method allows an employer to measure employee hours over successive one-week periods, which the regulations call the “weekly rule.” Therefore, full-time employee status for some months will be based on four-week periods and five-week periods for other months. An employer must use weeks of seven (7) calendar days (such as Sunday through Saturday). The rule for this method is consistent with the look-back measurement method in that it requires that the month period measured include either the week that includes the first day of the month or the week that includes the last day of the month, but not both. In this respect the monthly measurement method does not allow the use of payroll periods per se (unless you use one week payroll periods), but attempts to use a payroll-like process.

The regulations include the following as an example:

Employer uses Sunday through Saturday as a week in applying the weekly rule. In measuring for January 2016, employer measures from Sunday, December 27, 2015 – Saturday, January 30, 2016 to determine an employee’s full-time status. Per the weekly rule, the employer included the week that included the first day of the calendar month but did not include the week that included the last day of the calendar month.

Key Takeaways

The implementation of the ACA has prompted the need for mid-sized and large group employers (50+ full-time and full-time equivalent employees) to identify employees who average 30 or more hours per week. The regulations provide different methods for capturing this data under a look-back measurement period of 3 to 12 months or by measuring employee hours on a month-by-month basis. The regulations also attempt to accommodate existing employer processes in capturing this information.

The key for any organization is to determine which available method is best suits their organizational needs and goals. If you have questions about which method best suits your organization, please contact your attorney, accountant or your M3 account management team.

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