



Applicable Large Employer

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ADP Resource® has developed this dashboard to provide guidance only. It is not designed to take the place of consultation with a tax advisor to evaluate the details of any specific employer type or definition.

The Affordable Care Act dashboard allows ADP Resource client administrators to better understand the applicability of the Employer Shared Responsibility provision of the Affordable Care Act to their business.

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Shared Responsibility Overview

Beginning in 2015, Shared Responsibility requirements of the Affordable Care Act (ACA) mandates that applicable large employers (ALEs) must offer affordable health coverage that provides minimum value as described below, or be subject to potential penalties. An ALE is defined as an employer with at least 50 full-time employees, including full-time equivalent employees, during the preceding calendar year.

Transition Relief

Employers employing between 50 and 99 full-time employees, including full-time equivalent employees, during 2014 are eligible for transition relief in 2015, provided:

- the employer can certify that they have not restructured their workforce or reduced the overall hours of service of its employees during the period beginning February 9, 2014 and ending December 31, 2014 without a bona fide business reason, and
- they have not eliminated or materially reduced the health coverage offered, if any, as of the period beginning on February 9, 2014 and ending on the last day of the plan year that begins in 2015

All 50-99 size employers must comply with Shared Responsibility in 2016.

Applicable Large Employer Requirements

1. **Offer benefit plans with Minimum Essential Coverage (MEC):** Employers should offer full-time employees the opportunity to enroll in MEC under an employer plan (Code Sec. 4980H(a)). MEC is a health plan that has a minimum value of at least 60%, meaning that the plan pays at least 60% of the total allowed costs of medical expenses.
2. **Offer affordable coverage:** Employers should offer full-time employees MEC coverage that is considered "affordable." Coverage is considered affordable when an employee's share of the health premium costs the employee less than 9.5% of that employee's annual household income (HHI).

An employer may utilize a safe harbor provision to determine affordability by calculating an employee's contribution for the lowest-cost employee-only MEC option offered as compared to:

- the employee's Box 1 Form W-2 reportable wages, or
- the employee's lowest rate of pay for each calendar month.*

* In accordance with IRS guidelines when utilizing the "rate of pay" safe harbor, the applicable monthly rate of pay for an hourly employee is an amount equal to 130 hours multiplied by the lower of (i) the employee's hourly rate of pay as of the first day of the coverage period (typically the first day of the plan year), or (ii) the employee's lowest hourly rate of pay during the calendar month. For a non-hourly employee, the monthly rate of pay is determined as of the first day of the coverage period. If the monthly salary for a non-hourly employee is reduced, including due to a reduction.

Applicable Large Employer Determination

In 2015, Shared Responsibility applies to companies employing an average of 100 or more full-time employees, including full-time equivalents, in 2014 and may apply to employers employing 50 to 99 full-time employees, including full-time equivalents, in 2014 if they do not qualify for Transition Relief.

The Shared Responsibility Full-Time Equivalency Calculator assists employers in determining the potential impact of Shared Responsibility.

Full-Time Equivalency Calculations & Definitions

The **Total Full-Time Employee count (FTE)** is calculated each month and is based on the sum of:

- the number of full-time employees, and
- for all employees who were not full-time for the month, the aggregate number of hours of service (not to exceed 120 hours for any employee), divided by 120.

These monthly values are then used to determine the average Total Full-Time Employees for the calendar year selected in the drop-down box. ALE status to determine whether an employer is subject to the ACA Shared Responsibility provision is based on the prior calendar year full-time employee count. For example, the 2014 full-time employee count is used to determine if the employer is an ALE for the 2015 calendar year.

Note: *The Annual Total Full-Time Employees value is rounded down to the nearest whole number for determining ALE status.*

- **Full-Time Employees:** The annual average of a monthly count of all employees that have credited service equal to at least 30 hours per week or 130 hours per month.

Note: The calculator uses 130 hours per month to determine full time status.

- **Full-Time Equivalents:** The annual average of the monthly aggregate number of hours of service (not to exceed 120 hours for any employee) for all employees who were not full-time for the month, divided by 120. Full-time equivalents are treated as full-time employees only for purposes of determining The Total Full-Time Employee annual count.

- **Monthly Hours** calculations are derived from the hours worked per pay period for hourly employees or a standard of 40 hours per week for full-time salaried employees. Based on the period end date of each payroll processed by ADP Resource, an average hours per day is calculated. This average hours value is then applied to each day of the pay period to derive a monthly value for each month of the selected calendar year. Based on pay frequency, hours are spread across a set number of days based on the period end date.

Weekly = 7 days

Biweekly = 14 days

Semi-monthly = 15 days

Monthly = 30 days

- **Controlled Group:** All employees of a controlled group, as defined by the Internal Revenue Code, are to be taken into account in determining whether any member of the controlled group or affiliated service group is an applicable large employer.
- **Seasonal Workers:** An employer may exclude any seasonal workers from the ALE calculation if the employer's FTE count exceeds 50 for 120 days or less during the preceding calendar year, and the employees in excess of 50 during that period are seasonal workers. Seasonal workers are defined, for the purposes of ALE exclusion, as a worker who performs labor or services on a seasonal basis as defined by the Secretary of Labor, including (but not limited to) workers covered by 29 CFR 500.20(s)(1) and retail workers employed exclusively during holiday seasons.

Note: *If Resource does not have a full 12 months of data for the employer, the seasonal workers are not removed from the FTE calculation for purposes of this tool.*

There are instances where ADP Resource applies additional assumptions to the hours worked.

Assumptions

- Commission only, full-time employees are assumed to be active and working 40 hours when they are included in the payroll and when they are included in the no pay reporting as "Commission Only."
- Self Employed Individuals are included in the applicable large employer calculation if they have W-2 wages included in any payroll during the calendar year.
- Part-time salaried employees are assumed to work an average of 40 hours per week when regular hours are not included in the payroll.
- Clients with piece rate employees or other non-standard hours calculations are excluded from Shared Responsibility calculations.
- If bonus hours are entered for an hourly or salaried part-time employee, these hours will be included in the FTE calculator.
- Manual voids processed outside the payroll are applied to the period in which the void occurs. Voided payrolls crossing quarters will not be addressed in the reporting.
- Employees active in multiple paygroups of a Controlled Group will have hours combined in the FTE Calculation.



Frequently Asked Questions

What is an Applicable Large Employer (ALE)?

An ALE means, with respect to a calendar year, an employer that employed an average of at least 50 full-time employees, including full-time equivalent employees, on business days during the preceding calendar year.

What is a Full-Time Employee?

A full-time employee means, with respect to a calendar month, an employee who is employed an average of at least 30 hours of service per week or 130 hours of service in a calendar month.

What is a Full-Time Equivalent employee?

A full-time equivalent employee means a combination of employees, each of whom individually is not treated as a full-time employee because he or she is not employed on average at least 30 hours of service per week with the employer. These individuals, in combination, are counted as the equivalent of a full-time employee solely for the purpose of determining whether the employer is an ALE. The annual average of the monthly aggregate number of hours of service (not to exceed 120 hours for any employee) for all employees who were not full-time for the month divided by 120.

What hours are required to be included in the Full-Time Employee calculation?

Hours of service include both paid hours of work and non-work hours (such as vacation, holiday, illness, jury duty, military duty or leave of absence) in order to determine the number of full-time employees.

Are bonus payrolls included as hours worked?

Yes. If bonus hours are entered for an hourly or salaried part-time employee, these hours will be included in the FTE calculator.

How do employers count hours of service for Salaried (non-hourly) Employees?

For salaried employees, hours of service may be calculated as:

- Actual hours worked, or
- “Days-worked” equivalency of 8 hours for each day the employee would be credited with at least 1 hour, or
- “Weeks-worked” equivalency of 40 hours for each week the employee would be credited with at least 1 hour

However, the regulations prohibit use of the days-worked or weeks-worked equivalency methods if the result would be to substantially understate an employee’s hours of service in a manner that would cause that employee not to be treated as a full-time employee. For example, an employee who worked 12 hours per day for 3 days one week could be credited with 40 hours that week, but could not be credited with only 8 hours of service per day under an equivalency method. If an employer does not track actual hours worked for a salaried part-time employee, then the hours attributable to that salaried part-time employee would need to be based upon either the “days worked” or “weeks worked” equivalency methods. In many cases this will likely result in the individual being counted as a full-time employee. This demonstrates another reason why employers must track hours for any employee that is not considered to be a full-time employee upon hire.

How do employers count hours of service for Hourly Employees?

For hourly employees, the hours should be calculated based upon actual hours worked.

Are Seasonal Workers considered in the Full-Time Employee calculation?

As a general rule, all seasonal workers are included in the calculation when determining whether an employer is an “applicable large employer” under the Employer Shared Responsibility provisions. However, the IRS provides a limited exception for certain employers.

The IRS regulations permit an employer to exclude seasonal workers from the Full-Time Employee calculation if:

- The employer’s monthly FT Employee calculation exceeds 50 for 120 days (or 4 months) or fewer during the calendar year; and

- The employees in excess of 50 are seasonal workers.

Note: If the employer exceeds 50 FTEs for 5 months or more, this “exception for seasonal workers” does not apply.

How is a Seasonal Worker defined under the Shared Responsibility provision?

The IRS regulations define a “seasonal worker” as a worker who performs labor or services on a seasonal basis. This includes:

- A worker whose employment is generally performed at certain seasons or during certain periods of the year, which employment, by its nature, may not be continuous or carried on throughout the year; and
- Retail workers employed exclusively during holiday seasons.

There isn’t necessarily a limit on the number of months an employee may work and still be deemed a “seasonal worker” for the purpose of calculating applicable large employer status.

Does an employer include international employees in their calculation of Full-Time Employees?

For purposes of determining whether an employer meets the 50 full-time employee (including full-time employee equivalents) threshold, an employer generally will take into account only work performed in the United States.

Are Union employees covered under a Collective Bargaining Agreement included in the count of Full-Time Employees for the purpose of the Employer Shared Responsibility provision?

Yes. An employer is required to include union employees in their calculation in determining whether they are subject to the Employer Shared Responsibility provisions.

How does the Employer Shared Responsibility provisions apply to employers that employ “piece workers” or commission based employees?

If an employer does not consider these production-based employees as full-time employees, then the employer will need to track the hours of service for these employees in order to determine the full-time equivalency of these employees. A piece-rate or commission employee working on average of 30 hours or more per week, or 130 hours per month would be deemed a full-time employee.

Is it possible that an employer with less than 50 full-time employees can be considered an applicable large employer under the Employer Shared Responsibility provision?

Yes, this is possible if the employer employs a large number of part-time employees or seasonal employees. For example, an employer with 45 full-time employees and 14 part-time employees (assume 7 full-time equivalents) could result in an average of 52 full-time employees for the year.

What is “Affordability”?

If an employee’s share of the premium for employer-provided coverage (self-only option) would cost the employee more than 9.5% of that employee’s annual household income (HHI), the coverage is not considered affordable for that employee. If an employer offers multiple healthcare coverage options, the affordability test applies to the lowest-cost option available to the employee that also meets the minimum value requirement.

Is the 9.5% affordability threshold based on the plan and tier of coverage the worksite employee elects?

An employer must offer at least one plan to the worksite employee that meets the minimum value requirement and is affordable in order to avoid a penalty. The 9.5% affordability threshold is based on the single-tier premium for the lowest cost health plan offered to the worksite employee that meets the minimum value requirement.

How does an employer know whether the coverage it offers is affordable under the Safe Harbor provision?

If an employee’s share of the premium for lowest-cost employer-provided coverage that also meets the minimum value requirement would cost the employee no more than 9.5% of that employee’s applicable rate of pay or Form W-2 wages, the coverage meets the affordability safe harbor and the employer will not be penalized if that employee qualifies for a premium tax credit/subsidy through the Marketplace.

How “Employer” is defined for ALE Status

All employees of a controlled group under § 414(b) or (c), or an affiliated service group under § 414(m), are to be taken into account in determining whether any member of the controlled group or affiliated service group is an applicable large employer.

Note: Not all employees of a control group may be included in ADP Resource systems. An employer may need to re-evaluate the Shared Responsibility results based on any additional employees outside of the ADP Resource system.

Because the determination of controlled group status is very complex and may depend upon particular facts and circumstances, ADP Resource encourages its clients to consult with their tax and/or legal advisor in order to make this determination.

When does a parent-subsidary controlled group exist?

When one or more chains of corporations are connected through stock ownership with a common parent corporation; and 80 percent of the stock of each corporation, (except the common parent) is owned by one or more corporations in the group; and Parent Corporation must own 80 percent of at least one other corporation. Sections 1563(a) and 414(b) and (c).

What is a brother-sister controlled group?

It is a group of two or more corporations, in which five or fewer common owners (a common owner must be an individual, a trust, or an estate) own directly or indirectly a controlling interest of each group and have “effective control.”

- Controlling interest 1.414(c)-2(b)(2), generally means 80 percent or more of the stock of each corporation (but only if such common owner own stock in each corporation); and
- Effective control 1.414(c)-2(c)(2), generally more than 50 percent of the stock of each corporation, but only to the extent such stock ownership is identical with respect to such corporation.

What is a combined group?

A combined group consists of three or more organizations that are organized as follows:

- Each organization is a member of either a parent-subsidary or brother-sister group; and
- At least one corporation is the common parent of a parent-subsidary; and is also a member of a brother-sister group.

What is an affiliated group?

An affiliated service group is one type of group of related employers and refers to two or more organizations that have a service relationship and, in some cases, an ownership relationship, described in IRC section 414(m). An affiliated service group can fall into one of three categories:

1. A-Organization groups (referred to as “A-Org”), consists of an organization designated as a First Service Organization (FSO) and at least one “A organization”,
2. B-Organization groups (referred to as “B-Org”), consists of a FSO and at least one “B organization”, or
3. Management groups.



Additional Information

- [US Department of Treasury Fact Sheet](#)
- [IRS Questions & Answers on Employer Shared Responsibility Provisions](#)
- [Shared Responsibility for Employers Regarding Health Coverage Final Regulation](#)