

 WHAT YOU NEED TO KNOW

Making Changes in Measurement and Stability Periods

Under the Patient Protection and Affordable Care Act (ACA), applicable large employers (ALEs) may use either the monthly or look-back method to determine whether an employee on average works 30 or more hours per week, and for whom a penalty may be owed if adequate health coverage is not offered. Under the look-back measurement method, an employee generally is treated as a full-time employee for each month during the following stability period if the employee averaged 30 or more hours of service per week during the measurement period. Employers have asked questions about how to handle employees who move among positions with differing look-back periods (start dates or lengths or both). The Internal Revenue Service (IRS) has now issued [Notice 2014-49](#) which provides a proposed method of handling these transfers. Although this method is still proposed, employers may safely use it through 2016. As of the end of 2016, no further guidance was provided for the IRS. Until it is provided, employers can continue to refer to this notice for guidance.

Under the proposed approach, if the measurement period for an employee changes because the employee transfers from one position to another with the same employer or to an employer within the controlled group and the positions do not use the same measurement period, if the employee is in a stability period (or an administrative period related to completion of an initial measurement period) for the first position as of the date of transfer, the employee's status as a full-time or non-full-time employee for the first position would remain in effect until the end of that stability period. If the employee is not yet in a stability or administrative period, the employee's status as a full-time or non-full-time employee would be determined under the look-back measurement method for the second position, and the employer would include all hours of service in the first position when determining the employee's average hours worked. In all other respects, the rules generally applicable to the look-back measurement method would continue to apply.

If the employer uses different methods of counting hours of service, such as actual hours versus weekly equivalency, the employer may either count all hours of service in both positions under the counting method used with the first position, or recalculate the hours of service in the first position under the counting method used with the second position. The employer must use the same method of converting hours of service with all similarly situated employees.

Additionally, an employer may change the measurement period or method (from or to the monthly measurement method, or in the length or start date) for one or more categories of employees. (The permitted categories are hourly and salaried, under a bargaining agreement or not under a bargaining

UBA ACA Advisor

agreement, covered under different bargaining agreements, and located in different states.) Employers that plan to change the dates of their measurement and stability periods must inform employees of the upcoming change, but cannot make the change until the stability period following the upcoming stability period.

If the employer changes the measurement method, the transition rules for employees who are moved between the monthly and look-back measurement methods must be applied to all employees affected by the change. Basically, the status of each affected employee as full time or not full time is determined as if, on the date of the change, the employee had transferred from a position to which the original measurement method applied to a position to which the revised measurement method applied, using the process described above.

The IRS has also clarified that if entities with different measurement periods are involved in a merger, acquisition, or similar corporate transaction, the surviving entity may continue to use the existing method for acquired employees until the end of their current stability period. If the acquired entity uses the monthly measurement method with respect to a category of employees, the monthly method may be continued until the last day of the first calendar year that begins after the date of the transaction.

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