

HEALTH CARE REFORM: TAXING EMPLOYERS – PART II: DEFINITIONS OVERVIEW

In order to understand whether or not an employer is subject to the taxes established under Internal Revenue Code section 4980H related to the Affordable Care Act (ACA), the government has provided definitions to clarify the size of an employer as well as the classification of an employee (i.e., full-time or part-time). This document provides a very brief overview of some of the high-level definitions. There are multiple examples, exceptions and complex details that need to be reviewed to understand the entire scope of each definition, and therefore your Keenan representative has additional resource information that can be referenced to assist you in understanding these issues.

These definitions are for the purposes of the ACA only.

LARGE EMPLOYER DEFINITION FOR THE ACA

A large employer is defined as having an average of at least 50 full-time employees in the previous calendar year. Determining the average number of employees is accomplished by the following method.

1. Calculate the number of full-time employees and full-time equivalents (FTEs) for each calendar month.
2. After adding all months together, divide by 12. Resulting number is the average FTEs per month (the result, if not a whole number is then rounded down to the next lowest whole number).

FULL-TIME EMPLOYEE AND FULL-TIME EQUIVALENT DEFINED

A full-time employee is defined as being employed on average at least 30 hours of service* per week (or 130 hours per month). The calculation for a full-time equivalent is slightly more complex. Following are the steps to determine the number of FTEs for an employer.

1. Identify the employees that averaged less than 30 hours of service per week.
2. Add the total number of hours of service by non-full-time employees (capped at 120 hours) for the month period.
3. Divide the total hours of service by 120. The resulting number is the number of FTEs for that month period.

CONTROLLED GROUPS

For purposes of counting the number of full-time and full-time equivalent employees, all entities and employees within an organization are treated as a single employer. However, with respect to government entities and

* "Service" is defined as any time that an employee is entitled to pay (e.g., vacation, sick leave, jury duty, etc.).

churches, they may rely on a reasonable, good faith interpretation of the rules relating to aggregation of entities found in the Internal Revenue Code[†] to determine whether an entity is a large employer.

TRANSITION RELIEF

Rather than being required to use the full twelve months of 2013 to measure whether it has 50 full-time employees, an employer may measure using any six-consecutive month period in 2013 to make the determination of its status as a large or small employer.

The definitions provided in this *Briefing* are only an overview of the definitions provided by the regulations. Please contact your Keenan representative if you need additional information regarding seasonal employee definitions, hours of service expanded definitions, examples of calculations, or other related resource information. Additionally, your Keenan representative can provide you with safe harbor information for all of these related topics.

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[†] Internal Revenue Code §§414(b)(c)(m) and (o)