Determining if an Employer is an Applicable Large Employer

Basic Information

- Two provisions of the Affordable Care Act apply only to applicable large employers (ALEs):
  - The employer shared responsibility provisions; and
  - The employer information reporting provisions for offers of minimum essential coverage
- Whether an employer is an ALE is determined each calendar year, and generally depends on the average size of an employer's workforce during the prior year.
- If an employer **has fewer than 50** full-time employees, including full-time equivalent employees, on average during the prior year, the employer is not an ALE for the current calendar year. Therefore, the employer is not subject to the employer shared responsibility provisions or the employer information reporting provisions for the current year. Employers who are not ALEs may be eligible for the Small Business Health Care Tax Credit and can find more information about how the Affordable Care Act affects them on the ACA Tax Provisions for Small Employers page.
- If an employer **has at least 50** full-time employees, including full-time equivalent employees, on average during the prior year, the employer is an ALE for the current calendar year, and is therefore subject to the employer shared responsibility provisions and the employer information reporting provisions.
- To determine its workforce size for a year an employer adds its total number of full-time employees for each month of the prior calendar year to the total number of full-time equivalent employees for each calendar month of the prior calendar year and divides that total number by 12.
- The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 provides that an employee will not be counted toward the 50-employee threshold for a month in which the employee has medical care through the military, including Tricare or Veterans' coverage. This is solely for the purpose of determining whether an employer is an "applicable large employer" subject to the employer shared responsibility rules of § 4980H. For more information, see IRC § 4980H(c)(2) subparagraph (F) "Exemption for Health Coverage Under Tricare or the Veterans Administration."

Full-time Employees and Full-Time Equivalent Employees

A full-time employee for any calendar month is an employee who has on average at least 30 hours of service per week during the calendar month, or at least 130 hours of service during the calendar month.

A full-time equivalent employee is a combination of employees, each of whom individually is not a full-time employee, but who, in combination, are equivalent to a full-time employee. An employer determines its number of full-time-equivalent employees for a month in the two steps that follow:

1. Combine the number of hours of service of all non-full-time employees for the month but do not include more than 120 hours of service per employee, and
2. Divide the total by 120.

An employer's number of full-time equivalent employees (or part-time employees) is only relevant to determining whether an employer is an ALE. An ALE need not offer minimum essential coverage to its part-time employees to avoid an employer shared responsibility payment. A part-time employee's receipt of the premium tax credit for purchasing coverage through the Marketplace cannot trigger an employer shared responsibility payment.

The Employer Shared Responsibility Provision Estimator helps employers understand how the provision works and learn how the provision may apply to them. Employers can use the estimator to determine:

- The number of full-time employees, including full-time equivalent employees,
- Whether an employer might be an applicable large employer, and

Employers Topics

- HealthCare.gov
- Small Business Health Care Tax Credit and the SHOP Marketplace
- Employer Shared Responsibility Provisions
- Information Reporting by Applicable Large Employers
- Information Reporting by Providers of Minimum Essential Coverage
- Affordable Care Act Information Returns (AIR)
- ACA Information Center for Tax Professionals

Related Links

- Small Business Administration
- Department of Labor
- BusinessUSA

- For employers that are an applicable large employer, an estimate of the maximum amount of the potential liability for the employer shared responsibility payment that could apply, based on the number of full-time employees reported if an employer fails to offer coverage to its full-time employees.

Basic ALE Determination Examples

Example 1 – Employer is Not an ALE

- Company X has 40 full-time employees for each calendar month during 2018.
- Company X also has 15 part-time employees for each calendar month during 2018 each of whom have 60 hours of service per month.
- When combined, the hours of service of the part-time employees for a month totals 900 [15 x 60 = 900].
- Dividing the combined hours of service of the part-time employees by 120 equals 7.5 [900 / 120 = 7.5]. This number, 7.5, represents the number of Company X's full-time equivalent employees for each month during 2018.
- Employer X adds up the total number of full-time employees for each calendar month of 2018, which is 480 [40 x 12 = 480].
- Employer X adds up the total number of full-time equivalent employees for each calendar month of 2018, which is 90 [7.5 x 12 = 90].
- Employer X adds those two numbers together and divides the total by 12, which equals 47.5 [(480 + 90 = 570)/12 = 47.5].
- Because the result is not a whole number, it is rounded to the next lowest whole number, so 47 is the result.
- So, although Company X has 55 employees in total [40 full-time and 15 part-time] for each month of 2018, it has 47 full-time employees (including full-time equivalent employees) for purposes of ALE determination.
- Because 47 is less than 50, Company X is not an ALE for 2019.

Example 2 – Employer is an ALE

- Company Y has 40 full-time employees for each calendar month during 2018.
- Company Y also has 20 part-time employees for each calendar month during 2018, each of whom has 60 hours of service per month.
- When combined, the hours of service of the part-time employees for a month totals 1,200 [20 x 60 = 1,200].
- Dividing the combined hours of service of the part-time employees by 120 equals 10 [1,200 / 120 = 10]. This number, 10, represents the number of Company Y's full-time equivalent employees for each month during 2018.
- Employer Y adds up the total number of full-time employees for each calendar month of 2018, which is 480 [40 x 12 = 480].
- Employer Y adds up the total number of full-time equivalent employees for each calendar month of 2018, which is 120 [10 x 12 = 120].
- Employer Y adds those two numbers together and divides the total by 12, which equals 50 [(480 + 120 = 600)/12 = 50].
- So, although Company Y only has 40 full-time employees, it is an ALE for 2019 due to the hours of service of its full-time equivalent employees.

Additional examples can be found in section 54-4980H-2 of the ESRP regulations.

Employer Aggregation Rules

Companies with a common owner or that are otherwise related under certain rules of section 414 of the Internal Revenue Code are generally combined and treated as a single employer for determining ALE status. If the combined number of full-time employees and full-time equivalent employees for the group is large enough to meet the definition of an ALE, then each employer in the group (called an ALE member) is part of an ALE and is subject to the employer shared responsibility provisions, even if separately the employer would not be an ALE.

Example 3 – Employers are Aggregated to Determine ALE Status:

- Corporation X owns 100 percent of all classes of stock of Corporation Y and Corporation Z.
- Corporation X has no employees at any time in 2018.
- For every calendar month in 2018, Corporation Y has 40 full-time employees and Corporation Z has 60 full-time employees. Neither Corporation Y nor Corporation Z has any full-time equivalent employees.
- Corporations X, Y, and Z are considered a controlled group of corporations.
- Because Corporations X, Y and Z have a combined total of 100 full-time employees for each month during 2018, Corporations X, Y, and Z together are an ALE for 2019.
- Corporation Y and Z are each an ALE member for 2018.
- Corporation X is not an ALE member for 2019 because it does not have any employees during 2018.

There is an important distinction for employers to keep in mind regarding these aggregation rules. Although employers with a common owner or that are otherwise related generally are combined and treated as a single employer for determining whether an employer is an ALE, potential liability under the employer shared responsibility provisions is determined separately for each ALE member.

Also, a special standard applies to government entity employers in the application of the aggregation rules under section 414. Because section 414 relates to common ownership and ownership isn't a typical arrangement for government entities, and because specific rules under section 414 of the Code for government entities haven't yet been developed, government entities may apply a good faith reasonable interpretation of section 414 to determine if they should be aggregated with any other government entities.

See Q&A #s11 and 44 on our employer shared responsibility provisions questions and answers page for more information.

Seasonal Workers

When determining if an employer is an ALE, the employer must measure its workforce by counting all its employees. However, there is an exception for seasonal workers.

An employer is not considered to have more than 50 full-time employees (including full-time equivalent employees) if both of the following apply:

1. The employer's workforce exceeds 50 full-time employees (including full-time equivalent employees) for 120 days or fewer during the calendar year, and
2. The employees in excess of 50 employed during such 120-day period are seasonal workers.

A *seasonal worker* is generally defined for this purpose as an employee who performs labor or services on a seasonal basis. For example, retail workers employed exclusively during holiday seasons are seasonal workers. For more information about how seasonal workers affect ALE determinations, see our Questions and Answers page. For information on the difference between a seasonal worker and a seasonal employee under the employer shared responsibility provisions see Q&A #26. And for the full definition of seasonal worker, see section 54.4980H-1(a)(39) of the ESRP regulations.

Application to New Employers

A new employer (that is, an employer that was not in existence on any business day in the prior calendar year) is an ALE for the current calendar year if it reasonably expects to employ, and actually does employ, an average of at least 50 full-time employees (including full-time equivalent employees) on business days during the current calendar year. See Q&A #7 on our employer shared responsibility questions and answers page for more information.

More Information

More information about determining ALE status can be found in our Questions and Answers and Publication 5208, Affordable Care Act – Are you an applicable large employer? The Department of the Treasury and the IRS have also issued the following legal guidance related to the employer shared responsibility provisions:

- Regulations on the employer shared responsibility for employers. In particular, section 54.4980H-2 of the regulations addresses rules for determining ALE status.
- Notice 2013-45, announcing transition relief for 2014.

More information is also available in this fact sheet issued by the U.S. Department of the Treasury.

Page Last Reviewed or Updated: 18-Mar-2019