

Compliance Alert



Guidance Issued on Transition Rules for Plans with Fiscal Plan Years

Release Date: February 22, 2013

The IRS has proposed regulations regarding transition relief for compliance with the shared responsibility rules cited in ACA section 4980H in terms of “applicable large employers” fiscal (non-calendar) plan years. These proposed regulations may be relied upon for guidance pending the issuance of final regulations or other applicable future guidance.

For those applicable large employers with existing fiscal plan years as of December 27, 2012, the proposed transition relief is provided to (a) avoid the need to administer a change mid-plan year, and (b) assist those employers choosing to use the look-back measurement period for determining full-time status. The employer’s plan must have already been in effect on December 27, 2012 if the employer is to take advantage of the transition relief.

Transition Relief Application

The transition relief applies so that employer penalties under 4980(H) would not apply relative to employees who would be eligible for coverage as of the first day of the 2014 fiscal plan year. However, the transition relief is provided only for those applicable large employers with a significant percentage of their employees eligible or covered under the fiscal year plans. Specifically, the transitional relief applies only if:

- a. At least one-quarter of the company’s employees are covered under the fiscal plan years (as of the end of the most recent enrollment period or any date between October 31, 2012 and December 27, 2012), or
- b. One-third or more of the company’s employees were offered coverage under those plans during the most recent open enrollment period before December 27, 2012.

No penalties shall be due prior to the first day of the 2014 fiscal plan year with respect to employees who are offered affordable, minimum value coverage no later than the first day of the 2014 fiscal plan year.

Additional rules apply to employers who sponsor multiple health plans with different plan years. Employers with these structures should seek the advice of a qualified advisor before assuming the transition relief would apply to any particular plan.

Measurement Periods

For those employers choosing to use the optional look-back measurement method for determining full-time status and using a 12-month stability period for the 2014 fiscal plan year, it will be necessary to begin their measurement periods in 2013.

Typically, the measurement period is required to match the chosen stability period. However, for ease of administration in determining full-time status for the 2014 fiscal plan year, the employer may adopt a transition measurement period that is shorter than 12 months, but that is no less than 6 months. In addition, the transition measurement period must begin no later than July 1, 2013 and end no earlier than 90 days before the first day of the 2014 plan year.

For example, an employer with a fiscal plan year beginning April 1, 2014 who elected a 90-day administrative period could use a measurement period from July 1, 2013 through December 31, 2013 (6 months), followed by an administrative period ending on March 31, 2014. Keep in mind, an employer with a fiscal plan year beginning July 1, 2014 or later must use a measurement period longer than 6 months in order to comply.

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