This document provides an overview of the employer shared responsibility (ESR) provisions of the Affordable Care Act based on guidance provided by the U.S. Department of the Treasury as of February 10, 2014.
Employer Shared Responsibility Provisions

Since the passage of the Affordable Care Act (commonly known as health care reform) in 2010, there have been many questions about the responsibility of employers to provide health insurance coverage to employees. This issue is addressed in the employer shared responsibility (ESR) provisions of the Affordable Care Act.

On February 10, 2014, the U.S. Department of the Treasury issued final regulations that include transition relief in enforcement of the ESR provisions of the Affordable Care Act for employers with 50 or more full-time employees.* This transition relief for applicable large employers has a number of areas of impact:

- **Companies with 50-99 full-time employees** –
  - One-year delay in enforcement of the provisions until 2016.
  - Must meet certain conditions outlined in the regulations to qualify for the transition relief.
  - Must certify in ESR reporting that they have met the conditions to qualify for the transition relief.

- **Companies with 100 or more full-time employees** –
  - Still subject to the ESR provisions in 2015.
  - Those who offer minimum essential coverage (MEC) may avoid one potential penalty if they offer coverage to at least 70 percent of their full-time employees and their dependents (instead of the previous standard of 95 percent). This requirement returns to 95 percent (or all but five full-time employees, whichever is less) in 2016 and beyond.
  - This relief may also extend into 2016 for those who have non-calendar-year plans in effect prior to February 10, 2014, if certain conditions are met.
  - Companies may still be liable for potential penalties if one of their non-covered employees receives a premium tax credit from a health-insurance marketplace or if the coverage offered is not affordable or does not provide minimum value.
  - The penalty applied when an employer does not offer health coverage to substantially all full-time employees and their dependents, and at least one full-time employee receives a premium tax credit for coverage, is adjusted – the first 80 full-time employees are subtracted when calculating this penalty in 2015. The reduction returns to the first 30 full-time employees for all applicable large employers in 2016.
  - The total number of employees includes the total within a controlled or affiliated service group.

The potential fees employers could face for failing to meet this requirement could be significant. Employers should not delay in getting prepared for this important law.

Paychex is committed to helping our clients deal with ESR provisions. From employee hours-of-service reporting to assessing the actuarial value of your health plan, we have experienced professionals and a multitude of tools and resources in place to help you determine if this requirement applies to you and, if so, to help you comply with the new law.

This brochure provides a detailed explanation of ESR with examples of how different employers will deal with the provisions, what you can do now to prepare for the provisions’ launch, and how Paychex can help you.

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*Full-time employee count in the ESR provisions includes full-time equivalent employees. Full-time employees are defined as working an average of 30 hours per week or 130 hours per month.
Employer Shared Responsibility Provisions
Safe Harbor Qualification

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The information in these materials is based on guidance provided by the U.S. Department of the Treasury as of February 10, 2014. It should not be considered legal or accounting advice, and should not substitute for legal, accounting, and other professional advice where the facts and circumstances warrant. These materials are for informational purposes only and may not provide details about every aspect of the employer shared responsibility provisions in their entirety. Please note that all dollar figures listed in this brochure will be adjusted for inflation in 2015.
Overview

The employer shared responsibility (ESR) provisions of the Affordable Care Act outline the responsibility of applicable large employers to offer adequate and affordable health insurance to their full-time employees (those who average 30 working hours per week or 130 hours per month) and their dependents (employee’s children, up to age 26, but not including employee’s spouse) and the potential penalties the Internal Revenue Service (IRS) may require from the employers for not doing so.

- Effective January 1, 2015, employers who have 50 or more full-time employees, including full-time equivalent employees (FTEs), are considered “applicable large employers” and may be charged a penalty by the IRS if they fail to offer health insurance coverage to their full-time employees and their dependents that meets the established minimum essential coverage (MEC) requirements, the minimum value requirement, and affordability thresholds.

- For employers with 50 to 99 full-time employees, including FTEs, there may be a one-year delay in enforcement of the provisions until 2016. Employers must meet certain conditions outlined in the regulations to qualify for this transition relief and must certify in ESR reporting that they have met these conditions. The relief may extend into 2016 for employers who have non-calendar-year health plans in effect prior to February 10, 2014, if certain conditions are met.

- Full-time employees are defined as averaging 30 hours per week or 130 hours per month. Those employees who do not meet the criteria for full-time definition will have their hours aggregated by month (capped at 120 hours per employee) and divided by 120 to determine the number of FTEs for that month.

- For applicable large employers who do not qualify for transition relief, MEC must be offered in 2015 to at least seventy percent of their full-time employees and their dependents. In 2016, this requirement returns to all but five percent of (or, if greater, five) full-time employees and their dependents.

- Applicable large employers may be charged a penalty if they offer MEC to substantially all full-time employees and their dependents, but 1) the coverage is deemed unaffordable or 2) the coverage does not provide minimum value.

- A penalty cannot be charged until at least one full-time employee receives a federal premium tax credit (premium subsidy) for health insurance through a federal or state government health insurance marketplace (formerly called an “exchange”).

- However, the employer will not be subject to a penalty for employees offered coverage if that coverage is considered to provide MEC, meets the minimum value test, and is deemed affordable using one of the safe-harbor methods provided.

- Applicable large employers may be subject to a penalty if they offer qualified and affordable coverage to the required number of full-time employees, but at least one of the full-time employees who are not offered coverage (non-covered employee) receives a premium subsidy through a health insurance marketplace.

- In 2015, no penalty will be charged to an applicable large employer who has fewer than 80 full-time employees. Even if an applicable large employer is not subject to penalties, the business will still be subject to reporting requirements beginning with the 2015 plan year. Beginning in 2016, no penalty will be charged to an applicable large employer who has fewer than 30 full-time employees.

- If an applicable large employer maintains a fiscal-year health insurance plan (rather than a calendar-year plan), as of December 27, 2012, the company may qualify for potential penalty relief for months in 2015 prior to the start of the 2015 plan year, if certain conditions are met.

- Whether or not an employer is subject to the ESR provisions is based upon the number of employees employed during the previous calendar year. Applicable large employers should track employee hours of service in 2014 to determine the number of full-time employees and FTEs they have on staff in preparation for offering health coverage in 2015.
| Affordable Coverage | • An employee’s required contribution for self-only coverage to the lowest cost plan that offers minimum essential coverage cannot exceed 9.5 percent of their modified adjusted gross household income. Employers may not be able to determine an employee’s gross household income. However, they may use one of three affordability safe harbor methods to assist them in determining whether the coverage they are providing is deemed affordable:
| a) Form W-2 Safe Harbor: Use employee’s Form W-2 wages shown in Box 1. |
| b) Rate of Pay Safe Harbor: Multiply an employee’s lowest hourly rate by 130 to determine monthly wages or use a salaried employee’s monthly pay. This method may not be used for a salaried employee who experiences a reduction in pay during the year. |
| c) Federal Poverty Line Safe Harbor: Use the federal poverty line for a single individual. |
| • An applicable large employer may apply the safe harbors for any reasonable category of employees, provided it does so on a uniform and consistent basis for all employees in a category. Certain limitations apply. |

| Applicable Large Employer (ALE) | • A business entity that employs 50 or more full-time employees, including FTEs. |
| All member entities within a controlled or affiliated service group under Code Section 414(b), (c), (m), and (o) are taken into account when determining if an employer is an applicable large employer. |
| Each member entity within a controlled or affiliated service group will be looked at separately when determining penalties that may apply. Penalties will be charged only to the member entities within the controlled or affiliated service group that do not meet the requirements. |
| For employers with 50 to 99 full-time employees, including FTEs, there will be a one-year delay in enforcement of the provisions until 2016. Employers must meet certain conditions outlined in the regulations to qualify for the transition relief and must certify in ESR reporting that they have met these conditions. The relief may extend into 2016 for employers who have non-calendar-year health plans in effect prior to February 10, 2014. |

| Dependent | • A child (who is under 26 years of age) of an employee. This does not include the spouse, step children, or foster children of an employee. |

| Full-Time Employee | • An employed person who averages 30 or more hours of service per week or 130 hours per month. This definition of employee is based on the common-law standard. It does not include individuals such as a leased employee, a sole proprietor, a partner in a partnership, or a two-percent S-Corp shareholder. |
• The number of full-time equivalent employees is determined by taking the total hours worked by part-time employees in a given month (capped at 120 per employee), divided by 120:
  - Total hours per month worked by part-time employees (capped at 120) /120 = Total FTEs

**Full-Time Equivalent Employee (FTE)**

**Hours of Service Calculation**

• The following methods are used to calculate hours of service for hourly and non-hourly employees:

  a) **Hourly employees** - Use actual hours of service from records of hours worked and hours for which payment is made or due.

  b) **Non-hourly employees** - Use one of the following methods:

    i. Actual hours of service from records of hours worked and hours for which payment is made or due.

    ii. Days-worked equivalency - The employee is credited with eight hours of service for each day in which the employer would be required to be credited with at least one hour of service.

    iii. Weeks-worked equivalency - The employee is credited with 40 hours of service for each week in which the employer would be required to be credited with at least one hour of service.

• The employer is not required to use the same method for all non-hourly employees and may apply different methods for different classifications of non-hourly employees as long as the classifications are reasonable and consistent.

• The equivalency methods are not permitted to be used if they would substantially understate an employee's hours of service in a manner that would treat the employee as not full-time or understate the hours in a manner that understates the FTE count for determining whether the employer is an ALE subject to the provision.

• Hours of service generally do not include hours of service worked outside the United States. Employees working overseas generally will not have hours of service and will not qualify as full-time employees. However, all hours of service for which an individual receives U.S. source income are counted as hours of service for these provisions in a manner that would treat the employee as if they are not full-time or understate the hours in a manner that understates the FTE count for determining whether the employer is an ALE subject to the provision.

• Hours of service for volunteers and for participants of a federal work-study program (or a substantially similar state program) may be excluded.

• The IRS suggested that a reasonable method of crediting hours for adjunct faculty would be to credit 2 ¼ hours for every classroom hour, plus any hours required outside the classroom (such as faculty meetings and office hours).

• The IRS suggested a reasonable method of crediting layover hours in which hours would be credited at 8 hours for a layover or 16, if it is overnight, unless that substantially understates hours of service.
<table>
<thead>
<tr>
<th>Household Income Reporting</th>
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<tbody>
<tr>
<td>• As the employer may have no way of knowing the total family income of the employee, the IRS has provided additional affordability safe harbor methods to determine affordability (see Affordable Coverage definition). However, the IRS is still requiring the employee to use household income when determining eligibility if a premium tax credit is requested. When the employee's taxes are filed, the cost of insurance compared to income will be determined.</td>
</tr>
<tr>
<td>• The IRS will use a modified adjusted gross income (MAGI) when determining if a household is eligible for a subsidy. This includes both spouses' wages and the wages of any eligible dependent, even though the employee may file separately.</td>
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<table>
<thead>
<tr>
<th>Minimum Essential Coverage</th>
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<tbody>
<tr>
<td>• Health insurance coverage that meets the minimum benefits standard of the small- or large-group market within the state is considered to offer minimum essential coverage (MEC). This includes most broad-based medical coverage typically provided by employers. It would not include certain specific coverage, such as accident or disability income, stand-alone dental or vision coverage, or workers' compensation insurance.</td>
</tr>
<tr>
<td>• To avoid a penalty under ESR, an employer must provide MEC to 70 percent of full-time employees and their dependents in 2015 and to all but five percent of (or, if greater, five) full-time employees and their dependents in 2016 and beyond.</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Minimum Value</th>
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<tr>
<td>• A health-insurance plan that has an actuarial value that covers at least 60 percent of the cost of medical expenses is considered to provide minimum value.</td>
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<table>
<thead>
<tr>
<th>Part-Time Employee</th>
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<tr>
<td>• An employed person who averages fewer than 30 hours of service per week or 130 hours per month.</td>
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<th>Penalties</th>
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<tr>
<td>• There are two types of penalties for applicable large employers for not complying with the ESR provisions, depending on whether the employers do or do not meet the minimum essential coverage (MEC) offer test:</td>
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<tr>
<td>- When an employer does not meet the MEC offer test and at least one full-time employee receives a premium subsidy through a federal or state government health insurance marketplace (exchange), the annualized penalty will be:</td>
</tr>
</tbody>
</table>
|   • (The number of full-time employees minus 80) x $2,000, as adjusted for inflation.
• When an employer does meet the MEC offer test, but 1) does not offer coverage that meets the minimum value, 2) does not offer affordable coverage to at least one full-time employee, or 3) there is at least one full-time employee who is not offered coverage and who obtains a subsidy through a marketplace, the annualized penalty will be:
  - $3,000 for each applicable full-time employee (see previous conditions) who receives a premium subsidy through a marketplace. Note: The penalty cannot exceed the payment for not having offered health insurance ((number of full-time employees minus 80) x $2,000), as adjusted for inflation.

• When a full-time employee receives a premium subsidy from a marketplace, the employer may not necessarily be subject to a penalty if the employer-sponsored coverage is considered to offer MEC, meets the minimum value test, and is deemed affordable using one of the safe-harbor methods provided. Under these circumstances, the employer would only be charged a penalty for any full-time employees who are not offered MEC and who receive a premium subsidy.

• The determination of applicable large employer is made on a controlled group basis; the liability calculation is made on a member-company-by-member-company basis. The 80-employee reduction when determining the liability for non-coverage, however, must be allocated pro rata among the members of the controlled group. This is based upon the number of full-time employees employed by each member (if a member’s allocation is less than one, but more than zero, round up to one full-time employee). The following equations use Example 5, Essential Enterprises (Fran’s Fabrics), to illustrate:
  - Total full-time employees member company/Total full-time employees in the controlled group = Percent of full-time employees
    90/180 = 50%
  - Percent of full-time employees x 80 = Number of employees to deduct before paying penalty
    50% x 80 = 40
  - (Number of full-time employees – Number of employees to deduct) x $2,000 = Assessable penalty
    (90 – 40) x $2,000 = $100,000 total penalty

Seasonal Employee Exception

• If an employer’s workforce exceeds 50 full-time employees, including FTEs, for 120 or fewer days (four months) during a calendar year, and the employees in excess of 50 during that period are seasonal workers, the employer would not be considered an applicable large employer. The four months/120 days need not be consecutive. Seasonal employees are defined as employees who are hired into positions for which the customary annual enrollment is six months or fewer.
Employer Shared Responsibility Provisions
Steps and Examples To Determine Assessable Penalties

Step 1: Applicable Large Employer Test: Does business qualify as an applicable large employer with 50 or more full-time employees, including FTEs?

Step 2: Transition Relief Test: Does business qualify for transition relief in 2015?

Step 3: Full-Time Employee Test: Does employer have 80 or more full-time employees?

Step 4: Premium Subsidy Test: Has one or more of full-time employees received a premium tax credit from a government health insurance exchange marketplace?

Step 5: Minimum Essential Coverage (MEC) Offer Test: Does employer offer MEC to at least 70 percent of its full-time employees and their dependents?

Step 6: Minimum Value Test: Does the employer-sponsored plan have an actuarial value that covers at least 60 percent of the cost of medical expenses?

Step 7: Affordability Test: Is the employer-sponsored plan deemed affordable based on the approved safe-harbor methods?

Step 8: Non-Covered Employee Test: When the employer offers MEC to the required number of full-time employees, has at least one of the full-time employees who are not offered coverage received a premium subsidy from a marketplace?

Notes:

• These examples are based on requirements for 2015 only. The calculations will change based on different requirements in 2016.

• The penalties in these examples are annualized and assume no change in employment structure throughout the year, except as noted in Example 4.

• Although no penalties will be charged to employers who have fewer than 80 full-time employees, employers must still determine whether they are an applicable large employer. Applicable large employers will still be subject to annual reporting requirements, even if they are not liable for a penalty.

Example 1: Bonnie’s Day Care

• Bonnie’s Day Care employs:
  20 full-time employees working at least 130 hours per month
  6 part-time employees working 60 hours per month

• Bonnie’s Day Care does not offer MEC to any employees.

• 10 full-time employees receive a premium subsidy through a marketplace.
**Step 1: Applicable Large Employer Test**

(6 part-time employees x 60 hours per month/120) + 20 full-time employees = 23 full-time employees, including FTEs.

Bonnie’s Day Care does not qualify as an applicable large employer, since the company falls below the threshold of 50 or more full-time employees, including FTEs.

**Result:** With fewer than 50 full-time employees, Bonnie’s Day Care is not subject to the ESR provisions for 2015. Even though some employees have received a premium subsidy, the employer may not be assessed a penalty.

**Example 2: Cool Café**

- Cool Café is a non-seasonal business that does not offer MEC to employees.
- Cool Café employs:
  - 18 full-time employees working at least 30 hours per week and 130 hours per month
  - 60 part-time employees working fewer than 30 hours per week and an average of 80 hours per month.
- Five full-time employees receive a premium subsidy through a marketplace.

**Step 1: Applicable Large Employer Test**

(60 part-time employees x 80 hours per month/120) + 18 full-time employees = 58 full-time employees and FTEs.

Cool Café qualifies as an applicable large employer with more than 50 full-time employees and FTEs.

*Go on to Step 2.*

**Step 2: Transition Relief Test**

Cool Café has met the conditions and has certified on the appropriate ESR reporting to qualify for transition relief.

**Step 3: Full-Time Employee Test**

Cool Café has 18 full-time employees.

**Result:** Since Cool Café qualified for transition relief, the business is not subject to any employer shared responsibility penalties in 2015.

**Example 3: Widget Manufacturing Company**

- Widget employs 120 full-time employees and no part-time employees.
- Seven of the employees receive a premium subsidy from a marketplace.
SCENARIO A • Widget does not offer MEC to any full-time employees.

**Step 1: Applicable Large Employer Test**  
With 120 full-time employees, Widget has more than 50 full-time employees and FTEs, so is an applicable large employer.  
*Go on to Step 2.*

**Step 2: Transition Relief Test**  
Because it has more than 100 full-time employees and FTEs, Widget does not qualify for transition relief.

**Step 3: Full-Time Employee Test**  
Widget has more than 80 full-time employees.  
*Go on to Step 4.*

**Step 4: Premium Subsidy Test**  
Widget has seven employees who have received a premium subsidy.  
*Go on to Step 5.*

**Step 5: MEC Offer Test**
- Widget does not offer MEC to any full-time employees.
- The penalty will be $2,000 per full-time employee above the first 80.  
  \[(120 - 80) \times \$2,000 = \$80,000\]

**Result:** $80,000 penalty in 2015 for not offering MEC.

**Note:** Widget does not need to continue to Steps 6 through 8. These steps apply only to employers who offer MEC.

SCENARIO B • Widget offers MEC to 84 of the 120 full-time employees and their dependents, but the plan does not provide minimum value (see “Minimum Value” definition on page 4).

**Step 1: Applicable Large Employer Test**  
See Scenario A. *Go on to Step 2.*

**Step 2: Transition Relief Test**  
See Scenario A. *Go on to Step 3.*

**Step 3: Full-Time Employee Test**  
See Scenario A. *Go on to Step 4.*

**Step 4: Premium Subsidy Test**  
See Scenario A. *Go on to Step 5.*
Step 5: MEC Offer Test
Widget offers MEC to 84 of 120 full-time employees and dependents.

As 84 employees represent exactly 70% of their full-time employees, Widget is in compliance with the MEC required-coverage level (See “Minimum Essential Coverage” definition on page 3).

Widget passes the MEC offer test.
Go on to Step 6.

Step 6: Minimum Value Test

• The Widget plan does not provide health insurance at the minimum value.
• Widget will be charged a penalty of $3,000 for each of the seven full-time employees who received a premium subsidy: $3,000 x 7 = $21,000
• The penalty cannot exceed the $80,000 that would have been assessed for not offering coverage at all.

Result: $21,000 penalty in 2015.

Note: Widget does not need to go through steps 7 and 8 since the business failed the minimum-value test. Failing this test affects all covered employees, and the employer must pay the penalty for all the full-time employees who receive a premium subsidy.

SCENARIO C
• Widget offers MEC to 84 of 120 full-time employees and their dependents at the minimum value.
• The coverage is deemed unaffordable (see “Affordable Coverage” definition on page 2) for five of the seven full-time employees who have received a premium subsidy from a marketplace.

Step 1: Applicable Large Employer Test
See Scenario A. Go on to Step 2.

Step 2: Transition Relief Test
See Scenario A. Go on to Step 3.

Step 3: Full-Time Employee Test
See Scenario A. Go on to Step 4.

Step 4: Premium Subsidy Test
See Scenario A. Go on to Step 5.

Step 5: MEC Offer Test
See Scenario B. Go on to Step 6.

Step 6: Minimum Value Test
Pass. Go on to Step 7.
Step 7: Affordability Test

- Coverage is deemed unaffordable for five of the seven employees who have received a premium subsidy.

Widget will be charged a penalty of $3,000 for each full-time employee receiving a subsidy whose coverage is deemed unaffordable.

\[3,000 \times 5 \text{ employees} = 15,000\]

This is less than the penalty for not offering MEC coverage ($80,000 – see Scenario A); therefore, the penalty is $15,000.

Go on to Step 8.

Step 8: Non-Covered Employee Test

Widget reviewed the employees who received subsidies and determined that this group did not include any non-covered full-time employees.

Widget will not be charged a penalty for non-covered employees.

Result: Widget will be charged a penalty totaling $15,000 for the full-time employees who received subsidies for unaffordable coverage.
SCENARIO D
- Widget offers MEC at the minimum value to 84 of the 120 full-time employees and their dependents.
- Coverage is not deemed affordable for five of the seven employees who receive a premium subsidy from a marketplace.
- Two of the 36 non-covered full-time employees receive a premium subsidy from a marketplace.

Step 1: Applicable Large Employer Test
See Scenario A. Go on to Step 2.

Step 2: Transition Relief Test
See Scenario A. Go on to Step 3.

Step 3: Full-Time Employee Test
See Scenario A. Go on to Step 4.

Step 4: Premium Subsidy Test
See Scenario A. Go on to Step 5.

Step 5: MEC Offer Test
Pass. Go on to Step 6.

Step 6: Minimum Value Test
Pass. Go on to Step 7.

Step 7: Affordability Test
See Scenario C.
Subtotal penalty for unaffordable coverage:

$3,000 \times 5 = 15,000$

Go on to Step 8.

Step 8: Non-Covered Employee Test
Widget will be charged a penalty of $3,000 for each full-time non-covered employee who receives a premium subsidy.

Subtotal penalty for non-covered employees who received a premium subsidy:

$3,000 \times 2 = 6,000$
**Result:** The total penalty for unaffordable coverage and for non-covered employees receiving subsidy is $21,000.

\[\$15,000 + \$6,000 = \$21,000\]

**Note:** The total penalty cannot exceed the $80,000 that would have been charged for not offering coverage at all.

**Example 4: Best Boat Rentals**

- Best Boat is a seasonal business in a resort area.
- Best Boat employs 22 full-time employees each month (January - December).
- The part-time workforce and number of full-time employees and FTEs is broken down as follows:

<table>
<thead>
<tr>
<th>Month</th>
<th>Hours</th>
<th>FTEs Calculation</th>
<th>FTEs</th>
<th>Hours</th>
<th>FTEs Calculation</th>
<th>FTEs</th>
<th>Subtotal FTEs (Part-Time Employees)</th>
<th>Total Full-Time Employees and FTEs</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>1,280</td>
<td>/120 = 10.7</td>
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<td>/120 = 0</td>
<td>0</td>
<td>10.7</td>
<td>32.7</td>
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<tr>
<td>February</td>
<td>896</td>
<td>/120 = 7.5</td>
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<td>/120 = 0</td>
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<td>7.5</td>
<td>29.5</td>
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<tr>
<td>March</td>
<td>1,512</td>
<td>/120 = 12.6</td>
<td>0</td>
<td>/120 = 0</td>
<td>0</td>
<td>12.6</td>
<td>34.6</td>
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<tr>
<td>April</td>
<td>2,496</td>
<td>/120 = 20.8</td>
<td>0</td>
<td>/120 = 0</td>
<td>0</td>
<td>20.8</td>
<td>42.8</td>
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<td>May</td>
<td>2,976</td>
<td>/120 = 24.8</td>
<td>0</td>
<td>/120 = 0</td>
<td>0</td>
<td>24.8</td>
<td>46.8</td>
<td></td>
</tr>
<tr>
<td>June</td>
<td>2,304</td>
<td>/120 = 19.2</td>
<td>3,960</td>
<td>/120 = 33.0</td>
<td>52.2</td>
<td>74.2</td>
<td></td>
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<tr>
<td>July</td>
<td>3,072</td>
<td>/120 = 25.6</td>
<td>4,380</td>
<td>/120 = 36.5</td>
<td>62.1</td>
<td>84.1</td>
<td></td>
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<tr>
<td>August</td>
<td>3,120</td>
<td>/120 = 26.0</td>
<td>3,840</td>
<td>/120 = 32.0</td>
<td>58.0</td>
<td>80.0</td>
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<tr>
<td>September</td>
<td>3,000</td>
<td>/120 = 25.0</td>
<td>2,112</td>
<td>/120 = 17.6</td>
<td>42.6</td>
<td>64.6</td>
<td></td>
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<tr>
<td>October</td>
<td>2,304</td>
<td>/120 = 19.2</td>
<td>0</td>
<td>/120 = 0</td>
<td>0</td>
<td>19.2</td>
<td>41.2</td>
<td></td>
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<tr>
<td>November</td>
<td>1,920</td>
<td>/120 = 16.0</td>
<td>0</td>
<td>/120 = 0</td>
<td>0</td>
<td>16.0</td>
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<tr>
<td>December</td>
<td>2,688</td>
<td>/120 = 22.4</td>
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<td>/120 = 0</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>229.8</strong></td>
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<td><strong>348.9</strong></td>
<td></td>
<td><strong>612.9</strong></td>
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</table>
Step 1: Applicable Large Employer Test

29 average monthly FTEs based on part-time workers (348.9 FTEs/12 = 29.1) + 22 full-time employees = 51 total full-time employees and FTEs (including seasonal workers)

Best Boat appears to have 51 full-time employees and FTEs; however, Best Boat exceeds 50 full-time employees and FTEs for no more than four calendar months (June, July, August, and September) due to its seasonal employees. Since Best Boat exceeds 50 full-time employees and FTEs during only four months, the business can exclude seasonal employees from its applicable large employer calculation.

When removing the seasonal employees from the calculation, 229.8 non-seasonal part-time FTEs remain. Best Boat employs a total of 41 full-time employees, including FTEs.

19 FTEs based on part-time, non-seasonal workers (229.8 FTEs/12) + 22 full-time employees = 41 full-time employees, including FTEs

Result: Best Boat is not considered an applicable large employer since it has fewer than 50 full-time employees and FTEs and is not subject to the employer shared responsibility provisions for 2015.

Example 5: Essential Enterprises
A Controlled or Affiliated Service Group

Essential Enterprises owns and controls three different businesses with a total of 215 full-time employees.

1. Fabulous Flooring employs 30 full-time employees and 24 part-time employees working 1,920 hours per month for a total of 46 full-time employees and FTEs.

   30 + (1,920/120) = 46 full-time employees and FTEs

2. Simply Signs employs 95 full-time employees and 12 part-time workers with a total of 1,200 hours per month for a total of 105 full-time employees and FTEs.

   95 + (1200/120) = 105 full-time employees and FTEs

3. Fran’s Fabrics employs 90 full-time employees and 34 part-time employees working 2,880 hours per month for a total of 114 full-time employees and FTEs.

   90 + (2,880/120) = 114 full-time employees and FTEs
**Step 1: Applicable Large Employer Test.** Determine if a controlled or affiliated service group qualifies as an applicable large employer.

Essential Enterprises has 265 full-time employees and FTEs (46 + 105 + 114 = 265). Essential Enterprises is considered an applicable large employer with greater than 50 full-time employees and FTEs.

*Go on to Step 2.*

**Step 2: Transition Relief Test.** Essential Enterprises does not qualify for transition relief.

**Step 3: Full-Time Employee Test**

Essential Enterprises has a combined total of 215 full-time employees.

\[30 + 95 + 90 = 215\]

Essential Enterprises has a combined total of more than 80 full-time employees.

*Go on to Steps 4 through 8 to determine if penalties are chargeable for each member business.*

**Business 1**

Fabulous Flooring offers affordable MEC to all full-time employees and their dependents at minimum value. One of the full-time employees receives a premium subsidy.

**Step 4: Premium Subsidy Test**

One full-time employee has received a premium subsidy.

*Go on to Step 5.*

**Step 5: MEC Offer Test**

Fabulous Flooring offers MEC to all full-time employees and dependents.

*Go on to Step 6.*

**Step 6: Minimum Value Test**

The Fabulous Flooring plan meets the minimum value requirements.

*Go on to Step 7.*

**Step 7: Affordability Test**

The coverage offered to the employee who received a subsidy is deemed affordable.

*Go on to Step 8.*

**Step 8: Non-Covered Employee Test**

The employee who received a subsidy is covered by the employer’s MEC insurance. Fabulous Flooring passes the non-covered employee test.

**Result:** Fabulous Flooring passes all the tests and will not be charged any employer shared responsibility penalties for this period.
Business 2
Simply Signs offers MEC to all full-time employees at a minimum value, but coverage is deemed unaffordable for some employees. Ten full-time employees receive a premium subsidy.

Step 4: **Premium Subsidy Test**
10 full-time employees have received a premium subsidy.

*Go on to Step 5.*

Step 5: **MEC Offer Test**
Simply Signs offers MEC to all full-time employees and dependents.

*Go on to Step 6.*

Step 6: **Minimum-Value Test**
The Simply Signs plan meets the minimum-value requirements.

*Go on to Step 7.*

Step 7: **Affordability Test**
The employer has determined that coverage is deemed unaffordable to eight of the ten full-time employees who have received a premium subsidy.

**Note:** The employer is only charged a penalty for unaffordability based on the safe-harbor methods provided, even if other employees receive a premium subsidy from a marketplace.

The penalty is calculated as $3,000 multiplied by the number of full-time employees receiving a subsidy whose coverage is deemed unaffordable.

$3,000 \times 8 = $24,000 penalty

*Go on to Step 8.*

Step 8: **Non-Covered Employee Test**
All the full-time employees are offered MEC. Simply Signs passes the non-covered employee test.

**Result:** Simply Signs will be charged a total penalty of $24,000 based on unaffordable coverage.
Business 3
Fran’s Fabrics does not offer MEC to any employees. One full-time employee receives a premium subsidy from a marketplace.

Step 4: Premium Subsidy Test
One full-time employee has received a premium subsidy.
Go on to Step 5.

Step 5: MEC Offer Test
Since Fran’s Fabrics does not offer MEC to any employees, the business may be charged a penalty.

For a company that is not a controlled or affiliated service group, the penalty would be $2,000 per full-time employee above the first 80 full-time employees. For controlled and affiliated service groups, the penalty is based on the percentage of full-time employees an individual entity has within the controlled group.

Fran’s Fabrics has 90 full-time employees, or 42 percent of Essential Enterprises’ total full-time employees (215).

Fran’s Fabrics subtracts 42%, or 34, of the 80 full-time employees Essential Enterprises can deduct before being charged a penalty from its number of full-time employees.

\[
42\% \text{ of } 80, \text{ rounded up } = 34 \\
90 - 34 = 56
\]

Result: Fran’s Fabrics will be assessed $2,000 per full-time employee minus the first 34 full-time employees for a total of $112,000.

\[
$2,000 \times (90 - 34) = $112,000 \text{ penalty to Fran’s Fabrics}
\]

Example 6: Bob’s Baked Goods
Bob’s Baked Goods has 110 full-time employees and does not offer MEC to any employees. Two employees have received a premium subsidy from a marketplace.

In its current form, Bob’s Baked Goods is considered an applicable large employer and may be charged a penalty of $60,000 for not offering MEC.

\[
(110 \text{ full-time employees} - 80) \times $2,000 = $60,000
\]
The owner is planning to split his business into two separate entities, with 55 employees each and two different federal employer identification numbers. He does not know if he would still be considered an applicable large employer. Doing research, he finds that his two companies are considered a controlled group under IRS Code Section 414.

**Step 1: Applicable Large Employer Test**
Determine if the controlled or affiliated service group qualifies as an applicable large employer:
Bob’s Baked Goods has 110 full-time employees and FTEs (55 + 55 + = 110).

Bob’s Baked Goods is considered an applicable large employer with greater than 100 full-time employees and FTEs.
Go on to Step 2.

**Step 2: Transition Relief Test**
Bob’s Baked Goods does not qualify for transition relief. Go on to Step 3.

**Step 3: Full-Time Employee Test**
Bob’s Baked Goods has a combined total of 110 full-time employees.

55 + 55 = 110

Bob’s Baked Goods has a combined total of more than 80 full-time employees.

**Result:** For the purposes of the penalty, each business is looked upon as a stand-alone entity. Each company may be charged a penalty of up to $30,000.

(55 full-time employees – 40)* x $2,000 = $30,000

The owner may have to pay up to $60,000 for both businesses.

See Example 5 for details on how penalties are calculated for a controlled or affiliated service group. The penalty charged for each member company could vary depending on how each individual member company complies with the employer shared responsibility provisions and whether any employee receives a premium subsidy.

*See page 5 for explanation.*
**Minimum essential coverage must be offered to at least 70 percent of full-time employees and their dependents in 2015.

**Employer penalty is $2,000 per full-time employee after the first 80 full-time employees.

---

*FTE = full-time equivalent employee (see definition in Key Terms and Definitions on page 3).

**Minimum essential coverage must be offered to at least 70 percent of full-time employees and their dependents in 2015.
If one or more full-time employees enroll in a government marketplace and receive a government subsidy (premium credit) **NO**

If employer fails all tests A, B, and C. **NO**

Employer fails test

For each full-time employee, does coverage meet at least one of the **affordability** requirements?

If employer passes at least 1 of 3 tests. **YES**

A

Annual employee contribution for lowest cost single plan ≤ 9.5% of annual wages in Form W-2 Box 1?

B

Monthly employee contribution for lowest cost single plan ≤ 9.5% of monthly wages (hourly rate x 130 hours)?

C

Annual employee contribution for lowest cost single plan ≤ 9.5% of Federal Poverty Line for a single individual?

Employer in safe harbor

Employer penalty is the lesser of $3,000 for each affected full-time employee OR $2,000 per full-time employee after the first 80 full-time employees

Employer fails test

Does coverage provide minimum actuarial value? **YES**

If one or more full-time employees who are not offered minimum essential coverage purchases insurance through a government marketplace and receives a government subsidy (premium credit) **NO**

If one or more full-time employees enrolls in a government marketplace and receives a government subsidy (premium credit) **YES**
What You Need To Do as an Employer

You can start to prepare for employer shared responsibility provisions. In 2014 and 2015, you should track your employees’ monthly hours to determine if your business will qualify as an applicable large employer and, if so, which employees may put you at risk for a penalty under ESR provisions if not offered adequate and affordable coverage in 2015 and 2016.

An employee’s hours of service include:

- Time for which an employee is paid, or entitled to payment, for the performance of duties for the employer.
- Time that is paid, but for which the employee may not work, such as paid vacation time, sick time, disability, jury duty, military duty, and leaves of absence.

You must use the actual hours of service for hourly employees. You can use one of three different methods to calculate hours of service for non-hourly (salaried) employees:

1. Counting actual hours of service from records of hours worked and hours for which payment is made or due (as noted above).
2. Using a days-worked equivalency method, you would credit the employee with eight hours of service for each day of service.
3. Using a weeks-worked equivalency method, you would credit the employee with at least 40 hours of service for each week of service.

You cannot use the days-worked or weeks-worked equivalency method if it would substantially understate an employee’s hours of service and cause a full-time employee to be classified as a part-time employee, or cause the total FTE count to be understated so that you would not be subject to the provision.

You are not required to use the same method for all non-hourly employees and may apply different methods for different classifications of non-hourly employees as long as the classifications are reasonable and consistent.

You can also:

- Review the type of plan you’re offering.
- Determine if you offer coverage substantially to all your full-time employees.
- Calculate 9.5% of your lowest paid full-time employee’s salary and determine whether that matches or exceeds the employee contribution for your plan.
- Talk to your insurance carrier about:
  - The actuarial value of your health plan.
  - Using the tool available on the U.S. Department of Health and Human Services health care reform site (www.healthcare.gov) to calculate actuarial value.
  - Whether or not your plan meets the MEC standard.
Paychex Can Help You Prepare for ESR Provisions

Paychex Employer Shared Responsibility Services can help you determine whether you are an applicable large employer and which employees may subject you to ESR penalties if you do not offer adequate and affordable coverage.

If you also purchase employer-sponsored health insurance through Paychex Insurance Agency or Paychex PEO, we can help you determine the adequacy of the coverage.

Paychex Employer Shared Responsibility Services offer the following reporting options à la carte or in combination:

**Hours Worked Report**
- If you do not require calculations to be provided for you, our basic Hours Worked Report is available at no additional charge for most payroll clients. This gives you raw data based on hours reported to calculate the number of full-time employees and full-time equivalents (FTEs). Paychex will provide an instruction manual to show you how to use the report to calculate your employer status.

**Paychex Time and Labor Online (TLO)** - We provide the following reports as part of the TLO package for no additional charge:

**Applicable Large Employer Report**
- Calculates the total number of full-time employees and FTEs you have per month. The report lists the employees’ total paid and unpaid hours (including work, sick, personal, and vacation pay types) and average hours per month.

**Applicable Large Employer Scheduled Report**
- Calculates the total projected number of full-time employees and FTEs based on your schedule for a month.

**Approaching Threshold Report**
- Lists employees who have time-card entries or punches within a set number of hours of the employer-defined threshold. It also lists employees and the number of hours they have worked within the specified date range.

**ESR Complete Analysis and Monitoring Services**
- Our most robust suite of reporting, administrative, and benefits solutions.

**Applicable Large Employer Analysis and Monitoring**
- Tracking and calculation of the number of full-time employees and FTEs to help determine if you are an applicable large employer and subject to ESR provisions.
Full-Time Employee Analysis and Monitoring

- Assists in determining which of your employees may subject you to ESR penalties if you do not offer adequate and affordable coverage. The analysis shows you measurement periods, administrative periods, and subsequent stability periods to determine full-time employees as outlined in the ESR provisions.

Coverage Adequacy Analysis and Monitoring*

- Helps you determine the adequacy of your health-care coverage, evaluating whether it provides minimum essential coverage, minimum actuarial value, and affordable coverage according to ESR provisions.

*The Coverage Adequacy Service is available only to payroll clients who receive their health and benefits (H&B) coverage through Paychex Insurance Agency or the Paychex PEO.

BeneTrac℠ Full-Time Employee Analysis Service

BeneTrac, a Paychex company and the industry leader in Web-based enrollment and employee benefits administration solutions, provides the BeneTrac Full-Time Employee Analysis Service to help you prepare for and comply with the ESR provisions of the Affordable Care Act.

This service helps your planning with employee-hour “look-back” capabilities to help you determine which employees are full-time and, therefore, should be offered adequate and affordable coverage to avoid potential penalties under the ESR provisions.

The Full-Time Employee Analysis Service provides:

- The framework and tools to establish a look-back measurement period for tracking your employee hours.
- A simplified process for this tracking, providing modeling capabilities to help you determine the impact of different measurement periods for tracking employee hours worked.
- Analysis of employee data to determine which variable-hour employees are full-time and should be offered coverage, or may subject you to a potential penalty.
- An on-demand look-back report to help you identify and manage eligibility changes.

Paychex PEO

Paychex PEO can also help navigate your company through the components of health care reform to help keep you in compliance with ESR provisions. The professional employer organization is a full-service HR outsourcing company that provides its own benefit plans for medical, dental, vision, life, and disability benefits, which are flexible and can be tailored to the needs of your company. This gives you and your employees more choices than the public marketplaces, which currently offer only medical and stand-alone dental coverage limited to small-group plans.

Get Prepared

For more information about ESR Services available through Paychex or BeneTrac, contact your local Paychex representative, call our toll-free number, or visit our website.
Insurance offered through Paychex Insurance Agency, Inc., 150 Sawgrass Dr., Rochester, NY 14620. CA license #0C28207.

Professional employer organization (PEO) services are sold and provided by Paychex Business Solutions, Inc. (PBS) and its affiliates, which are registered and licensed to sell and provide PEO services, including in Florida. PBS FL license numbers are Paychex Business Solutions, Inc., GL7; PBS of Central Florida, Inc., GM14; PBS of America, Inc., GM46; Paychex PEO I, Inc., GM455; and Paychex PEO II, Inc., GM456.
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