

U.S. Treasury Modifies Timelines and Provides Additional "Play or Pay" Guidance

Clients and Friends:

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As you may have heard, President Obama announced on Monday a new delay in the implementation the Employer Shared Responsibility Provision ("Play or Pay") penalties for employers with between 50 and 99 full-time employees, and a modification to the 2015 rules for employers with 100 or more full-time employees. You will remember that Play or Pay rules require that employers that average 50 or more full time employees must offer affordable minimum-value coverage to all of their full-time employees or pay penalties. But there have been questions about what types of employees will be considered full time, and about how to calculate hours and eligibility for employees who work non-standard hours.

The Department of the Treasury has released 227 pages of long-awaited clarifications regarding temporary, seasonal and variable-hour employees, as well as guidance for schools and school districts. In addition, the new rules provide much-needed information regarding transition rules for employers with non-calendar year plans.

Though there are many details to review and consider, here are the two major changes:

- ⇒ Employers with between 50 and 99 employees have a one-year reprieve. They will not have to report data or pay penalties during 2015. The new rules delay compliance for these employers until 2016, when they will have to report eligibility and enrollment data. For plan years beginning January 1, 2016 or later, these employers must offer coverage or pay penalties.
- ⇒ Until this week, the law said that employers with 100 or more employees had to offer coverage to 95% ("substantially all") full time employees in order to avoid the large subsection (a) penalty. This threshold is now reduced to 70% for 2015, providing employers with welcome relief and more time to evaluate their workforce's hours in light of the clarifications regarding temps, part-timers, and seasonal employees. The threshold will return to 95% in 2016. In addition, it is important to keep in mind that the smaller subsection (b) penalty will still apply for any full-time employee who receives an exchange subsidy because coverage is not offered, or is "unaffordable" (exceeds 9.5% of monthly income), or does not provide minimum value.

In addition to these changes, the Treasury has provided guidance about certain categories of employees, specifically:

- ⇒ Seasonal employees who typically are hired to work less than 6 months will not be considered full-time.
- ⇒ Federal or state work-study hours for work-study students will not count in the calculation of full-time status.
- ⇒ Volunteer hours worked for a tax-exempt or government agency will not count towards full-time status.
- ⇒ Adjunct faculty hours will be calculated at 2.25 hours for every classroom hour.
- ⇒ For educational employees, there is additional clarification that employees may not be considered part-time because of school closures during the summer months.

Over the next few weeks, we will be delving into the details of the new rules and will be talking with you about your specific employee population. If you have questions, call your Account Manager directly, or call the Benefits Helpline at 206.957.7066 or 800.946.7066. You can also find us by email at Questions@SIGinsures.com.