Calculating Full-Time Equivalent Employees (FTEs)

Large employers with 50 or more full-time equivalent (FTE) employees in the preceding calendar year are subject to the Employer Mandate.

Only common-law employees included in the calculation.

The legislation defines a full-time employee as an individual who works an average of 30 hours per week. Thus, part-time employees are those who work on average 29 or fewer hours per week. Full-time employee “equivalents” include full-time employees, part-time, and seasonal employees on a prorated basis. Only common-law employees are counted. A sole proprietor, a partner in a partnership, a member of a limited liability company taxed as a partnership, and a 2-percent or more S corporation shareholder is not counted as an employee. Also excluded from this test’s definition of “employee” is any individual who is paid by a staffing agency but provides services to an employer on a substantially full-time basis, including an individual whose services would meet the “leased employee” definition of Code Section 414(n).”

Common Control

When determining whether an employer has 50 or more FTEs, the employer must also apply the “controlled group” and “affiliated service group” rules under the Internal Revenue Code. Generally, this means that subsidiaries and affiliated companies must be combined and considered to be a single employer for purposes of meeting the 50 full-time employee equivalent threshold.

To determine large employer status for each calendar month of the preceding calendar year, employers must:

1. Count the number of full-time employees (including seasonal employees) who work on average 30 hours per week per month.
2. Calculate the number of full-time equivalent employees by aggregating the number of hours worked by non-full-time employees (including seasonal employees) and dividing by 120.
3. Add the number of full-time employees and full-time equivalents calculated in steps (1) and (2) for each of the 12 months in the preceding calendar year.
4. Add the monthly totals and divide by 12. If the average exceeds 50 full-time equivalents, determine whether the seasonal employee exception applies.

Seasonal Employee Exception

The law creates special rules for employers whose workforce exceeds 50 full-time employees for no more than 120 days or four calendar months during a calendar year if the employees in excess of 50 who were employed during that period were seasonal employees (the seasonal employee exception). The 120 days or four calendar months are not required to be consecutive.

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