



# Affordable Health Care Act: 2016 and beyond

Terri M. Lillesand, CPA  
Tax Shareholder and Leader of Schenck's Tax Practice



# DETERMINING FULL-TIME EMPLOYEES

# Determining full-time employees is more important than ever

- ▶ \$2,160 penalty per full-time employee for failing to offer at least **95%** of full-time employees and their dependents (but not including spouses) the opportunity to enroll in minimum essential coverage
- ▶ Can miss on 5% or five employees, whichever is larger
- ▶ Offer of coverage: An employee (and dependents) is offered coverage for a plan year only if the employee has an effective opportunity to elect to enroll in the coverage no less than once during the plan year
- ▶ Employers should document their offer of coverage by having employees sign a waiver of coverage if coverage is waived

# Determining full-time employees

- ▶ Two methods for determining full-time employees:
  1. Monthly measurement method
  2. Look-back measurement method
- ▶ The method is applied to four permitted groups of employees:
  1. Collectively bargained and non-collectively bargained employees
  2. Each group of collectively bargained employees
  3. Salaried and hourly employees
  4. Employees in different states.
- ▶ Control group members can use different methods
- ▶ Full-time: at least 30 hours a week

# Monthly measurement method

- ▶ Identify full-time employees based on the hours of service for each calendar month
- ▶ Look at weekly periods that either include the first day of the month or last day of the month
- ▶ 30 hours a week is full-time
- ▶ Use if full-time and part-time employment is stable week to week and part-time hours can easily be controlled to stay under 30 hours per week
- ▶ Hours of service: for any hour you are required to pay an employee

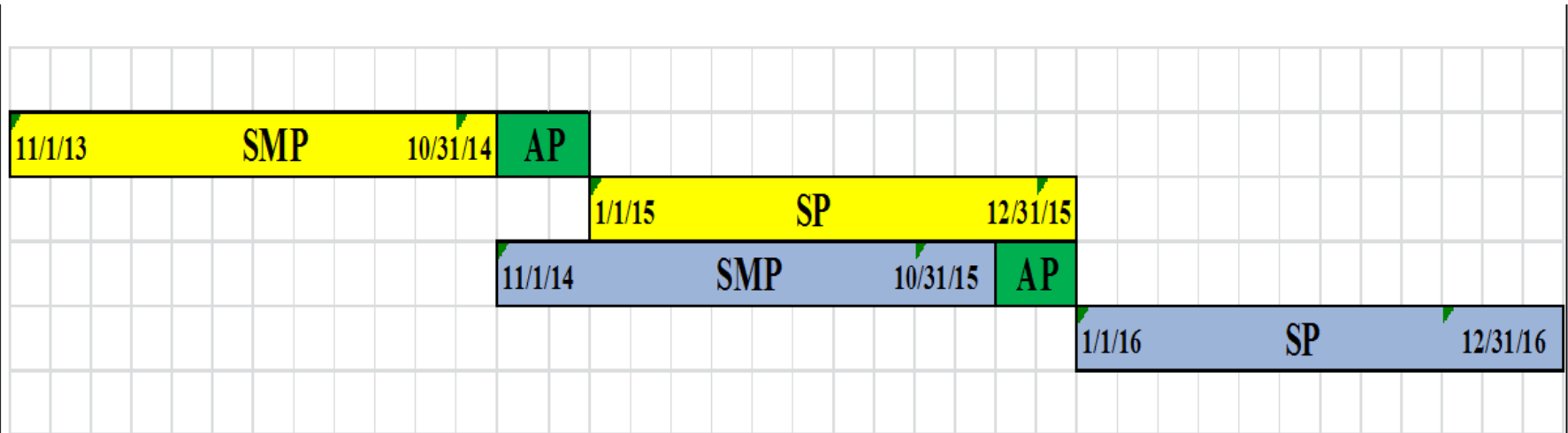
# Look-back measurement method

- ▶ Using a historical time period to determine if an employee is full-time or part-time.
- ▶ The historical period dictates the current period.
- ▶ Many pages of IRS regulations and examples

# Look-back measurement method definitions

- ▶ **Measurement period:** the period of not fewer than three months or not more than 12 months that are looked back to in order to determine full-time or part-time
  - Initial measurement period: for new employees
  - Standard measurement period: for on-going employees
- ▶ **Administrative period:** time after measurement period used to determine the status of employee. Cannot exceed 90 days.
- ▶ **Stability period:** period of time after measurement and administrative period where employee's status is locked in based on measurement period results. Must be at least 6 months and not shorter than the measurement period.

# Example: Look-back measurement method



SMP = Standard Measurement Period  
AP = Administrative Period  
SP = Stability Period



# Look-back measurement method definitions

- ▶ **Seasonal employee:** hired into a position which is customarily for a period of six months or less and hired at about the same time each year, regardless of how many hours they will work each week

# Look-back measurement method definitions

**Variable-hour employee:** An employee that, based on the facts and circumstances at the employee's start date, the large employer cannot determine whether the employee is reasonably expected to be employed on average at least 30 hours of service per week because the employee's hours are variable.

## Factors to consider:

- ▶ Whether the employee is replacing an employee who was a full-time employee or a variable hour employee
- ▶ The extent to which the hours of service of employees in the same or comparable positions have actually varied above and below an average of 30 hours of service per week
- ▶ Whether the job was advertised, or otherwise communicated to the new employee or otherwise documented (for example, through a contract or job description) the expected/required hours of service

# Look-back measurement method-Application

## Hire of new full-time (and non-seasonal) employee:

- ▶ If reasonably expected at the employee's start date to be a full-time employee, must treat as full-time and use the monthly measurement method
- ▶ Length of time the employee is expected to work cannot be considered (e.g. only hired for four months)
- ▶ If the employee's hours of service for the calendar month equal or exceed an average of 30 hours of service per week, the employee is a full-time employee for that calendar month
- ▶ When employee completes initial measurement period (becomes on-going employee) use measurement period to determine full-time or part-time

# Look-back measurement method-Application

## Hire of new variable hour employees, new seasonal employees, and new part-time employees:

- ▶ Determine whether the new employee is a full-time employee using an initial measurement period of no less than three consecutive months and no more than 12 consecutive months
- ▶ Initial measurement period begins on the employee's start date or on any date up to and including the first day of the first calendar month following the employee's start date
- ▶ Even if seasonal employee is reasonable expected to work full-time at hire, their status can be determined by their initial measurement period

# EMPLOYER REPORTING: BACKGROUND INFORMATION

# Employer-Provided Health Insurance Offer and Coverage

► Information about Form 1095-C and its separate instructions is at [www.irs.gov/form1095c](http://www.irs.gov/form1095c)

VOID

600116

OMB No. 1545-2251

CORRECTED

**2015**

<b>Part I Employee</b>						<b>Applicable Large Employer Member (Employer)</b>					
1 Name of employee			2 Social security number (SSN)			7 Name of employer			8 Employer identification number (EIN)		
3 Street address (including apartment no.)						9 Street address (including room or suite no.)			10 Contact telephone number		
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code	

14 Offer of Coverage (enter required code)	Plan Start Month (Enter 2-digit number):												
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)													

**Part III Covered Individuals**  
 If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

(a) Name of covered individual(s)	(b) SSN	(c) DOB (If SSN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# Why is large employer reporting required?

- ▶ IRS needs information to enforce three provisions of the Affordable Care Act:
  1. Individual mandate penalty for failing to purchase health insurance for yourself, spouse and dependents
  2. Large employer penalties for failing to offer any health insurance or failing to offer affordable health insurance to full-time employees
  3. Premium Tax Credit for those individuals who have purchased their insurance through the federal or state insurance marketplaces (aka exchanges)
- ▶ Employees will likely not use this info on their tax returns

# Definition: large employer

**Large employer:** Employers that, on average, employ 50 or more full-time and full-time equivalents

- ▶ Full-time is defined as 30 hours per week or 130 per month
- ▶ An employer is a large employer for the current year, based on the prior calendar year
  - All 12 months are looked at to determine the average number of FTE's per month, which is then averaged for the year
  - Part-time employee hours are totaled and divided by 120 hours
- ▶ Use calendar year 2015 to determine if a large employer for 2016



# What is the IRS going to do with Form 1095C?

- ▶ IRS has not released guidance
- ▶ Compare Form 1095C to Form 1095A (Health Insurance Marketplace Statement)
- ▶ Send letter to large employer stating a potential penalty may be due
- ▶ Allow the taxpayer to provide information to refute the penalty
- ▶ Could be late 2016 for the first letters/notices to be issued, after the October 15, 2016 individual tax return extended due date

# Section 1411 Certification

- ▶ The ACA directed HHS to establish a program for verifying whether an individual meets the eligibility standards for receiving an exchange subsidy
- ▶ Exchange must notify the employer when it determines that an employee is eligible for subsidized coverage
- ▶ Was supposed to happen in 2015
- ▶ IRS put pressure on HHS in late 2015

# Section 1411 Certification

## The Section 1411 Certifications must:

- ▶ Identify the employee;
- ▶ Provide that the employee has been determined to be eligible for advance payments of a health insurance subsidy;
- ▶ Indicate that, if the employer has 50 or more full-time employees, the employer may be liable for a penalty under Code Section 4980H;
- ▶ Describe the employer's appeal rights.

# Sample waiver

- ▶ I decline enrollment in the [employer name] health plan and hereby waive health insurance coverage for the following individuals. Mark all boxes that apply:
  - Myself
  - Spouse/domestic partner
  - Dependent(s), please list names: \_\_\_\_\_
  
- ▶ I am voluntarily declining coverage because:
  - I prefer to not enroll in any health insurance coverage at this time.
  - I have coverage under my spouse's/domestic partner's group health plan. (Please provide the other employer's name below.)  
Employer's name: \_\_\_\_\_

# Sample waiver (continued)

- ▶ I have coverage from another source. Please provide the name of the insurance carrier: \_\_\_\_\_
  
- ▶ This other coverage is:
  - Individual policy
  - COBRA
  - Medicare
  - Medicaid/CHIP
  - Insurance exchange



# THANK YOU!

TERRI LILLESAND, CPA

Shareholder

920-803-3135

[terri.lillesand@schencksc.com](mailto:terri.lillesand@schencksc.com)

