



New IRS Guidance for Calculation of Hours Worked by Adjunct Faculty and Student Employees

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New IRS Guidance for Calculation of Hours Worked by Adjunct Faculty and Student Employees under the Affordable Care Act

This week, the Internal Revenue Service released new regulations that provide guidance to college and university administrators that help to clarify the application of the Affordable Care Act (“Act”) to adjunct faculty and student workers. Under the employer shared responsibility provisions of the Act certain large employers must provide affordable, minimum value health coverage to full-time employees.[1] A full-time employee is defined as an individual working thirty or more hours per week. Although seemingly straightforward, the shared responsibility provisions left many puzzled. Specifically, college officials have been grappling with how to determine whether adjunct faculty members and student workers are considered full-time employees where a quantitative determination of hours worked per week is not always a routine calculation.

Initial guidance, issued in January 2013, advised college officials to use “reasonable” methods of determining adjunct faculty hours. However, determining an appropriate definition of “reasonable” has troubled college administrators attempting to measure the hours worked both inside and outside the classroom. Consequently, college administrators and faculty have been seeking much-needed clarity and guidance with regard to adjunct faculty and student workers as they review college policies to ensure compliance with the Act.

Adjunct Faculty Members

The new regulations offer a more predictable method of valuation of adjunct faculty hours worked. Under the regulations, college administrators may credit adjunct faculty members with 2 ¼ hours of work per week for each hour of teaching or classroom time. In other words, adjunct faculty members may be granted 1 ¼ hour in addition to each hour of classroom instruction. This credits adjunct faculty members for time spent on related tasks outside of the classroom, such as class preparation and grading of coursework. Separately, the regulations credit adjunct faculty with “an hour of service per week for each additional hour outside of the classroom the faculty member spends performing duties he or she is required to perform (such as required office hours or required attendance at faculty meetings).”

The regulations explain that the above-mentioned method is only one means of calculating hours of service and is not the only method that may be utilized; college administrators may seek other reasonable alternatives. However, in the absence of any additional guidance that modifies the methods described above, these methods may be relied upon until the end of 2015.

Student Workers

The regulations also address hours of service for student employees. The regulations provide that hours of service for purposes of the shared responsibility provision “do not include hours of service performed by students in positions subsidized through the federal work study program or a substantially similar program of a State or political subdivision thereof.” However, there is no general exception for student employees. All hours worked in which a student employee is entitled to payment (other than through a work-study program) are required to be counted as hours of service.

What Should Your Organization Do Now?

All colleges and universities should consider whether to apply the methods described above when reviewing and modifying internal policies and procedures to ensure compliance with the shared responsibility provisions of the Act. In addition, adjunct faculty members and student workers should be informed of any changes to the methods of calculating hours of service and how such changes may impact the availability of health coverage. While the employer shared responsibility provisions of the Act are not effective until January 1, 2015, employers are encouraged to observe the requirements of the Act and its accompanying regulations as soon as possible in order to facilitate a smoother transition to full compliance in 2015.

Conclusion

This advisory is intended to provide a comprehensive overview of the recent guidance issued by the Internal Revenue Service as it relates to adjunct professors and student employees, but does not address every component of the final regulations and should not be construed as specific legal advice. For specific advice or if you have any questions about the Act or its effect on your particular organization, please contact Hayley M. Kelch at 212-510-2230 or hkelch@cullenanddykman.com or Dina L. Vespia at 212-510-2245 or dvespia@cullenanddykman.com

1. Under the Affordable Care Act, large employers are generally defined as employers with 50 or more full-time employees.

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