



## Pay or Play Penalties—Look-back Measurement Method Examples

The Affordable Care Act (ACA) imposes a penalty on applicable large employers (ALEs) that do not offer health insurance coverage to substantially all full-time employees and dependents. Penalties may also be imposed if coverage is offered, but is unaffordable or does not provide minimum value. The ACA's employer penalty rules are often referred to as "employer shared responsibility" or "pay or play" rules.

The employer penalty provisions were set to take effect on Jan. 1, 2014. However, in July 2013, the Treasury **delayed the employer penalties and related reporting requirements for one year, until 2015**. Therefore, no penalties will apply to any employers for 2014. Smaller ALEs may also be eligible for an additional one-year delay, until 2016.

On Feb. 12, 2014, the IRS published [final regulations](#) on the ACA's employer shared responsibility rules. The final regulations provide an optional safe harbor method that employers can use for determining full-time status, called the look-back measurement method. The look-back measurement method involves a **measurement period** for counting hours of service, a **stability period** when coverage may need to be provided, depending on an employee's average hours of service during the measurement period, and an **administrative period** that allows time for enrollment and disenrollment.

This Legislative Brief provides examples of potential measurement, administrative and stability periods for plan years beginning in each month throughout the 2015 and 2016 calendar years. These examples assume that the employer will be using a **12-month standard measurement period**, a **two-month administrative period** and a **12-month stability period**.

It also provides examples of optional transition measurement periods in 2015, if allowed for the plan year. The final regulations allow employers to use **shorter measurement periods for stability periods starting in 2015** under the look-back measurement method. For 2015, employers can determine full-time status by reference to a **transition measurement period in 2014** that:

- Is shorter than 12 consecutive months, but not less than six consecutive months long; and
- Begins no later than July 1, 2014, and ends no earlier than 90 days before the first day of the first plan year beginning on or after Jan. 1, 2015.

If permitted under the employer shared responsibility rules with respect to their plan years, employers can choose to use either the standard measurement period or the transition measurement period for stability periods beginning in 2015.

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## PLAN YEAR SELECTION

The final rules state that the plan year must be 12 consecutive months, unless a short plan year of less than 12 consecutive months is permitted for a valid business purpose. A plan year may begin on any day of a year and must end on the preceding day in the following year (for example, a plan year that begins on Oct. 15, 2015, must end on Oct. 14, 2016).

Once established, a plan year is effective for the first plan year and for all subsequent plan years unless it is changed, provided that such change will only be recognized if made for a valid business purpose. Note that a change in the plan year is not permitted if the principal purpose of the change in plan year is to avoid the employer shared responsibility requirements.

## CALENDAR-YEAR PLANS

A calendar-year plan is a health plan that has a plan year running on the calendar year. Thus, the plan year of a calendar-year plan is a period of 12 consecutive months **beginning on Jan. 1** and **ending on Dec. 31** of the same calendar year.

PLAN YEAR: JAN. 1 — DEC. 31				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	Nov. 1, 2013 — Oct. 31, 2014	May 1, 2014 — Oct. 31, 2014	Nov. 1, 2014 — Dec. 31, 2014	Jan. 1, 2015 — Dec. 31, 2015
<b>2016 Plan Year</b>	Nov. 1, 2014 — Oct. 31, 2015	N/A	Nov. 1, 2015 — Dec. 31, 2015	Jan. 1, 2016 — Dec. 31, 2016

## NON-CALENDAR-YEAR PLANS

A non-calendar-year plan is a health plan that has a plan year that does not run on the calendar year. Thus, the plan year of a non-calendar-year plan is a period of 12 consecutive months **beginning in any month after Jan. 1**. As a result, the plan year of a non-calendar-year plan will run during parts of two consecutive calendar years.

PLAN YEAR: FEB. 1 — JAN. 31				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	Dec. 1, 2013 — Nov. 30, 2014	June 1, 2014 — Nov. 30, 2014	Dec. 1, 2014 — Jan. 31, 2015	Feb. 1, 2015 — Jan. 31, 2016
<b>2016 Plan Year</b>	Dec. 1, 2014 — Nov. 30, 2015	N/A	Dec. 1, 2015 — Jan. 31, 2016	Feb. 1, 2016 — Jan. 31, 2017

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PLAN YEAR: MARCH 1 — FEB. 28 (OR FEB. 29, DURING A LEAP YEAR)				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	Jan. 1, 2014 — Dec. 31, 2014	July 1, 2014 — Dec. 31, 2014	Jan. 1, 2015 — Feb. 28, 2015	March 1, 2015 — Feb. 29, 2016
<b>2016 Plan Year</b>	Jan. 1, 2015 — Dec. 31, 2015	N/A	Jan. 1, 2016 — Feb. 29, 2016	March 1, 2016 — Feb. 28, 2017

PLAN YEAR: APRIL 1 — MARCH 31				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	Feb. 1, 2014 — Jan. 31, 2015	July 1, 2014 — Jan. 31, 2015	Feb. 1, 2015 — March 31, 2015	April 1, 2015 — March 31, 2016
<b>2016 Plan Year</b>	Feb. 1, 2015 — Jan. 31, 2016	N/A	Feb. 1, 2016 — March 31, 2016	April 1, 2016 — March 31, 2017

PLAN YEAR: MAY 1 — APRIL 30				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	March 1, 2014 — Feb. 28, 2015	July 1, 2014 — Feb. 28, 2015	March 1, 2015 — April 30, 2015	May 1, 2015 — April 30, 2016
<b>2016 Plan Year</b>	March 1, 2015 — Feb. 29, 2016	N/A	March 1, 2016 — April 30, 2016	May 1, 2016 — April 30, 2017

PLAN YEAR: JUNE 1 — MAY 31				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	April 1, 2014 — March 31, 2015	July 1, 2014 — March 31, 2015	April 1, 2015 — May 31, 2015	June 1, 2015 — May 31, 2016
<b>2016 Plan Year</b>	April 1, 2015 — March 31, 2016	N/A	April 1, 2016 — May 31, 2016	June 1, 2016 — May 31, 2017

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PLAN YEAR: JULY 1 — JUNE 30				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	May 1, 2014 — April 30, 2015	July 1, 2014 — April 30, 2015	May 1, 2015 — June 30, 2015	July 1, 2015 — June 30, 2016
<b>2016 Plan Year</b>	May 1, 2015 — April 30, 2016	N/A	May 1, 2016 — June 30, 2016	July 1, 2016 — June 30, 2017

PLAN YEAR: AUG. 1 — JULY 31				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	June 1, 2014 — May 31, 2015	July 1, 2014 — May 31, 2015	June 1, 2015 — July 31, 2015	Aug. 1, 2015 — July 31, 2016
<b>2016 Plan Year</b>	June 1, 2015 — May 31, 2016	N/A	June 1, 2016 — July 31, 2016	Aug. 1, 2016 — July 31, 2017

PLAN YEAR: SEPT. 1 — AUG. 31				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	July 1, 2014 — June 30, 2015	N/A	July 1, 2015 — Aug. 31, 2015	Sept. 1, 2015 — Aug. 31, 2016
<b>2016 Plan Year</b>	July 1, 2015 — June 30, 2016	N/A	July 1, 2016 — Aug. 31, 2016	Sept. 1, 2016 — Aug. 31, 2017

PLAN YEAR: OCT. 1 — SEPT. 30				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	Aug. 1, 2014 — July 31, 2015	N/A	Aug. 1, 2015 — Sept. 30, 2015	Oct. 1, 2015 — Sept. 30, 2016
<b>2016 Plan Year</b>	Aug. 1, 2015 — July 31, 2016	N/A	Aug. 1, 2016 — Sept. 30, 2016	Oct. 1, 2016 — Sept. 30, 2017

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PLAN YEAR: NOV. 1 — OCT. 31				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	Sept. 1, 2014 — Aug. 31, 2015	N/A	Sept. 1, 2015 — Oct. 31, 2015	Nov. 1, 2015 — Oct. 31, 2016
<b>2016 Plan Year</b>	Sept. 1, 2015 — Aug. 31, 2016	N/A	Sept. 1, 2016 — Oct. 31, 2016	Nov. 1, 2016 — Oct. 31, 2017

PLAN YEAR: DEC. 1 — NOV. 30				
	Standard Measurement Period (optional for 2015)	Transition Measurement Period (optional for 2015)	Administrative Period	Stability Period
<b>2015 Plan Year</b>	Oct. 1, 2014 — Sept. 30, 2015	N/A	Oct. 1, 2015 — Nov. 30, 2015	Dec. 1, 2015 — Nov. 30, 2016
<b>2016 Plan Year</b>	Oct. 1, 2015 — Sept. 30, 2016	N/A	Oct. 1, 2016 — Nov. 30, 2016	Dec. 1, 2016 — Nov. 30, 2017

### MORE INFORMATION

Please contact Bene-Care Agency, LLC for more information on the employer shared responsibility rules.