

Employer Shared Responsibility Provisions: *Key Definitions*

- **Employer**: Includes for-profit, non-profit and government entity employers
- Common law definition of "employee" and "employer" applies
- Full-Time Employee: an employee who is employed on average <u>at</u> <u>least 30 hours per week</u>
- Full-Time-Equivalent (FTE) Employee: a combination of employees, each of whom individually is not a full-time employee because they are not employed on average at least 30 hours per week, but who, in combination, are counted as the equivalent of a full-time employee
 - For example, two employees, each of whom works 15 hours per week, are the equivalent of one full-time employee

Note: Transition relief means that employer responsibility payments will not be collected for 2014. Transition relief also means that employers with 50 – 99 Full-time/Full-time Equivalent employees are not subject to these rules in 2015 provided they meet certain certification requirements.



How does an employer count its full-time and FTE employees to know whether it has 50 or more?

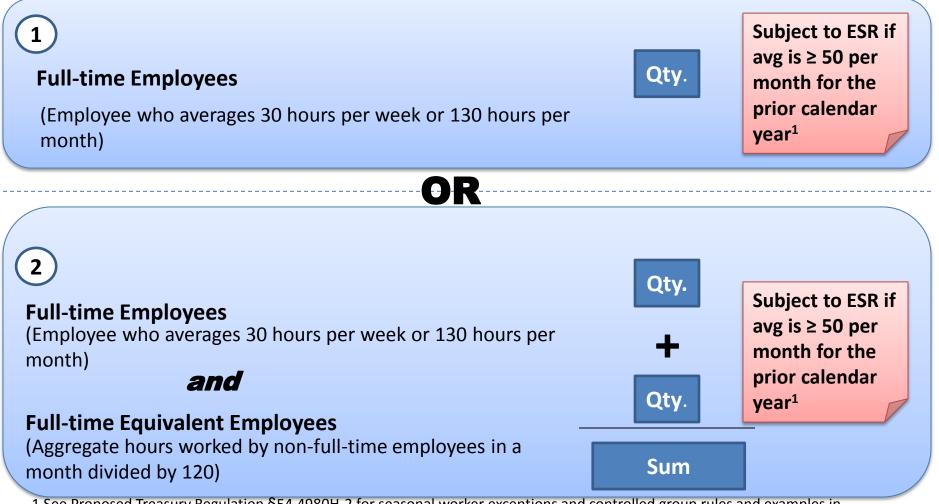
• An employer is subject to Employer Shared Responsibility if it averaged a combination of full-time employees (including seasonal employees) and full-time equivalents that equals at least 50.

Example: Company X has 40 full-time employees working 40 hours per week, along with 20 part-time employees working 15 hours per week. The 20 part-time employees are counted as 10 full-time equivalent employees. Company X has 50 full-time employees and is subject to the employer shared responsibility provisions.

• To determine whether it is subject to Employer Shared Responsibility for a given calendar year, the employer looks to the size of its workforce in the **prior** calendar year.

Note: Transition relief means that employer responsibility payments will not be collected for 2014. Transition relief also means that employers with 50 – 99 Full-time/Full-time Equivalent employees are not subject to these rules in 2015 provided they meet certain certification requirements.

How does a business know whether it is large enough SBA to be subject to Employer Shared Responsibility?



1 See Proposed Treasury Regulation §54.4980H-2 for seasonal worker exceptions and controlled group rules and examples in determining whether an employer is subject to employer shared responsibility.

Note: Transition relief means that employer responsibility payments will not be collected for 2014. Transition relief also means that employers with 50 – 99 Full-time/Full-time Equivalent employees are not subject to these rules in 2015 provided they meet certain certification requirements.

Special counting rules for determining whether an **SB** employer is subject to Employer Shared Responsibility

• <u>Aggregation Rule:</u> Certain affiliated employers with common ownership or who are part of a controlled group must aggregate their employees for purposes of determining whether they are subject to employer shared responsibility.

Example: For 2016, Corporation P owns 100% of all classes of stock of Corporations S and T. This makes P, S, and T a controlled group of corporations under tax rules. P has no employees at any time in 2016. For every month in 2016, S has 20 full-time employees and T has 15 full-time employees and 15 full-time equivalents (FTEs). Because P, S, and T have a combined total of at least 50 full-time employees (or equivalents) during 2016, each of P, S, and T is subject to employer shared responsibility for 2017.

• <u>Seasonal Worker Exception</u>: If an employer's workforce equals or exceeds 50 full-time employees (or equivalents) for 120 days or fewer during a calendar year solely due to seasonal workers, the employer is exempted from employer shared responsibility.

Note: Transition relief means that employer responsibility payments will not be collected for 2014. Transition relief also means that employers with 50 - 99 Full-time/Full-time Equivalent employees are not subject to these rules in $_4$ 2015 provided they meet certain certification requirements.