Limiting ACA Liability

Managing Part-Time and Seasonal Employees

Summary

As employers get familiar with new ACA reporting obligations, their focus will move toward long-term strategies to limit future penalties.

While full-time employees are easy to identify and plan for, variable hour employees' schedules change with the needs of the business and can be harder to predict and manage. Many organizations undertake a "limiting" strategy that provides hard boundaries for schedules of variable hour workers. Practical in theory, this approach is problematic in reality since a natural fluctuation in workforce scheduling—and an organization's labor requirements—makes this nearly impossible to enforce.

This paper examines a new strategy called guidance that shows employers how to use scheduling targets to effectively manage a variable hour workforce to limit ACA penalties.

Affordable Care Act: Beyond Reporting

2015 is the first year applicable large employers must submit forms related to the Affordable Care Act (ACA) to the IRS. But once employers have the reporting obligations under their belts, they'll seek ongoing strategies to minimize ACA penalties and liabilities.

The ACA hinges on providing benefits to full-time employees. In most cases, strategies to limit penalties and liabilities require managing the status of an organization's workforce. What is the worker's status: full-time? Part-time or seasonal? New hire with a varied schedule? How will that affect our obligations and liabilities?

Employee Types

ACA identifies three types of workers: known full-time, variable hour, and seasonal.

- ***Known full-time:*** Employees expected to work full-time (defined by the ACA as an average of 30 or more hours a week or 130 hours a month). These employees must be offered coverage or employers will face a per-employee penalty.
- ***Variable hour:*** Employees with schedules that change depending on the demands of the organization. They may be considered part-time or even fluctuate between full-time and part-time as needed. These employees may or may not require coverage depending on their actual service hours.
- ***Seasonal:*** Employees' work is considered "seasonal" in nature.

Seasonal Exemption

Organizations may be exempt from applicable large employer (ALE) status—and consequently exempt from ACA obligations—if their workforce exceeds 50 employees for four months (120 days) or less in a calendar year and all employees in excess of the 50 are "seasonal." ACA clarifies:

- Employees' work must be seasonal in nature.
- The season (not the time the worker is employed) typically lasts six months or less.
- The season occurs at the same time of year every year.

The opportunity to avoid penalties is clearly in the effective management of variable hour employees.

While full-time employee totals can be relatively straightforward and easy to predict, variable hour workers can skew numbers, switch statuses, and unwittingly put organizations at risk of costly penalties.

Why Limits for Variable Hour Workers Don't Work

To protect against potential penalties, many companies take a hard line approach to limiting variable hour workers' schedules. "We'll limit their time so there's no way their status will change," they declare.

In theory, this makes sense. In practice, this is nearly impossible to manage.

The reality is most businesses experience a natural workforce fluctuation. If one sales associate is sick, another will be scheduled to work the open shift. Coupled with the additional ebb and flow in the business's need for labor, this hard line approach will likely expose organizations inadvertently to more penalties, not fewer.

A New Mindset in Managing Variable Hour Workers

Instead of imposing rigid limits, organizations should consider a guidance approach.

Guidance examines how many hours the employee has worked in the past and sets targets, or "guidance values," for upcoming schedules. Compared to limiting, this is a more responsive and proactive approach. It allows managers to adjust employees' schedules as needed to be more flexible and meet the business' needs while minimizing employee status changes.

Automation: An Easy Way to Do the Heavy Lifting

Guidance requires accurate number crunching for employers to make the most of this strategy. But the idea is not to commit additional administrative resources to make it happen. The easier way to do the heavy lifting is to automate guidance with a workforce management system.

Most organizations have this type of system in place in the form of an HR or time and attendance system. If that's the case, organizations should talk with their vendors about the following functionalities to assist the guidance process:

ACA Status Tracking

The ability to track employee's ACA status makes it easy for managers to identify the category each employee falls under. It also helps to ensure upcoming scheduling won't inadvertently change an employee's status from part-time to full-time.

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Average Hour Guidance

Average hour guidance provides "guidance values" or scheduling targets for each individual employee based on previous service hours. This is the heart of the guidance strategy.

Scheduling

With guidance values in hand, managers can create schedules that meet the targets for each individual employee. A system that incorporates both of these functions makes it even easier.

Alerts and Notifications

If an employee is about to exceed the guidance value for the month, the system should notify managers in whatever way they prefer: email, mobile app, text, etc.

Reporting

Reporting is an essential part of the guidance process. System reporting should make it easy to create and share reports with stakeholders across the organization to keep the strategy proactive and working seamlessly.

Conclusion

Guidance is a new mindset for organizations looking for a responsive approach to managing ACA liabilities. Instead of inflexible limiting, guidance meets the organization's labor needs and protects them from inadvertent penalties. Automating the process with a workforce management system eliminates the administrative heavy lifting, leaving organizations with a light and effective ACA business management strategy.

This document simplifies a complex Act as it is understood by Attendance on Demand, Inc. It is not to be taken as legal advice. For further information about ACA compliance, please contact the Internal Revenue Service at www.irs.gov/Affordable-Care-Act/Employers

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