



# Affordable Care Act

## Taking a Better Look at the Look-Back Method

September 13, 2016

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# About CliftonLarsonAllen

- A professional services firm with three distinct business lines
  - Wealth Advisory
  - Outsourcing
  - Audit, Tax, and Consulting
- More than 4,500 employees
- Offices coast to coast
- Providing employee benefit plan audit, tax compliance, and consulting services for more than 50 years.
- Our 30 principals and 300 professionals audit more than 2,000 plans across the country and provide compliance and consulting services for hundreds more.



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# Speaker Introductions



## **Rick Krueger, CPA, Manager, CliftonLarsonAllen**

Rick has more than ten years of experience specializing in employee benefits. Rick manages a variety of services for clients with a wide range of complexity with a health care reform compliance and reporting. He has published several articles on ACA. Rick is a member of the CLA dedicated Employee Benefit Plan Group and active in the firm wide industry development.



## **Dan Doolin, Senior Account Executive, Integrity Data**

For the last 20 years, Dan has been helping customers achieve goals in the payroll and human resources functions of their organizations whether they have 30 employees or are a Fortune 200 enterprise. Recently, his efforts have been focused on helping employers comply with new and changing Affordable Care Act mandates and reporting requirements.



# Learning Objectives

- Describe the requirements under ACA for determining full-time status
- Discuss the advantages of the look-back measurement method to reduce compliance risk, reduce administrative time, and reduce expenses
- Demonstrate CLA's tools and resources available to aid in understanding and efficiency in ACA reporting.





# Determining Full-Time Status: Why is it important?

# Full-Time Status Under ACA... Why does it matter?

- 1. ACA Reporting (IRC §6056)
  - a. Annual Reporting on Forms 1094/1095-C
  - b. Applies to “Applicable Large Employers”



Risk: Errors or omissions subject to \$520 penalty per form (max \$6.4M)



Key Term: Applicable Large Employer

- 2. Employer Mandate (IRC §4980H)
  - a. Requires offering affordable health coverage (i.e. pay or play)
  - b. Applies to “Applicable Large Employers”  
Offers required for “Full-Time Employees”



Risk: Two potential penalties under §4980H (see slide 9)



Key Terms: Applicable Large Employer  
Full-Time Employee



# Comparison of Definition of Full-Time

	Applicable Large Employer (ALE)	Full-Time (FT) for Offering Health Coverage	
Overview	Employers with at least 50 full-time plus full-time equivalents are ALEs	Final regulations provide two methods to determine FT status: (i) monthly measurement method and (ii) look-back measurement method	
Impact	<ol style="list-style-type: none"> <li>ACA Reporting on Form 1095-C</li> <li>Subject to Pay or Play</li> </ol>	Determines who health coverage should be offered to	
		<u>Monthly</u>	<u>Look-Back</u>
Basic Calculation	Calculate # monthly and then use average for year. Employees with 120+ hours count as 1 FT employee. Other employees are divided by 120 hours to compute equivalency.	Employee status determined each month. Any employee with 130 hours classified as FT.	Average hours over a longer time period. Any employee averaging 30 hours per week during that measurement period is FT.
Seasonal Employees/Workers	May exclude seasonal workers if workforce exceeds 50 for 120 days or fewer and excess caused by seasonal workers.	No exclusion.	Option to treat as variable hour employee and delay enrollment.
Variable Hour Employees	No exclusion.	No exclusion.	Option to delay enrollment for 13 months for purpose of determining FT status.





# What Happens if Company Triggers 4980H Penalties?

**Step 1**

Applicable Large Employer?

No

Stop:  
No Penalty

Yes

**Step 2**

Offer MEC to 95% of FTs +  
Dependent Children?

No

Any FTs receive  
subsidy?

No

Stop:  
No Penalty

Yes

Yes

Penalty:  
(FTs less 30) x \$2,000

**Step 3**

Coverage affordable &  
minimum value?

No

Any FTs receive  
subsidy?

No

Stop:  
No Penalty

Yes

Yes

Stop:  
No Penalty

Penalty: Lesser of:  
FTs receiving subsidy x \$3,000  
OR  
(FTs less 30) x \$2,000



# Section 4980H Penalty Footnotes

- What is affordable coverage?
  - Employee premium for self-only coverage is not more than 9.5%\* of family's household income
  - Safe harbors:
    - ◇ W-2 safe harbor (must be used for full year): Based on W-2, Box 1
    - ◇ Federal poverty line (FPL) safe harbor: Based on FPL for household of one times 9.5%\*
    - ◇ Rate of pay safe harbor: Based on employee's rate of pay times 130 hours per month times 9.5%\*
  - Special rules for flex credits and opt-out payments
- \* The 9.5% threshold is indexed for inflation. 2016 threshold is actually 9.66%.
- Amount of penalties are indexed for inflation
  - 2015 amounts are \$2,080 and \$3,120
  - 2016 amounts are \$2,160 and \$3,240



# Government Subsidies: What is available?

## Premium Tax Credit

- Applies with household income between 100% - 400% of FPL
- Available through Exchanges if not offered affordable coverage from employer
- Tax credits can be applied in advance and adjusted on Form 1040

## Cost Sharing Reduction

- Applies to those between 100% - 250% of FPL
- Available through Exchanges for Silver Plans

## Medicaid & CHIP

- Application varies by state
- In states that expanded Medicaid, those making under 138% of FPL are eligible for Medicaid

# Notification: §1411 Certification

- Notices of Employee Eligibility for Exchange Subsidies
- Employer has right to appeal within 90 days
- IRS penalty calculation is a separate process
- Benefits to appealing:
  - Minimize employee's potential liability to repay subsidies
  - Additional protection for employer against §4980H penalties



# Employer Mandate Penalty Process



- IRS is still finalizing process
- Timing: IRS will contact employers *sometime* after individual tax deadline.
- Process
  - IRS reviews 3 data sources: Forms 1094/1095-C, Individual Tax Forms of Employees, and Information about Exchange Subsidies
  - Initial contact from IRS to inform about potential liability
  - Opportunity for employer to respond
  - IRS to send notice and demand for payment
  - Payment made separately from other tax payments



# Look-Back Method Advantages

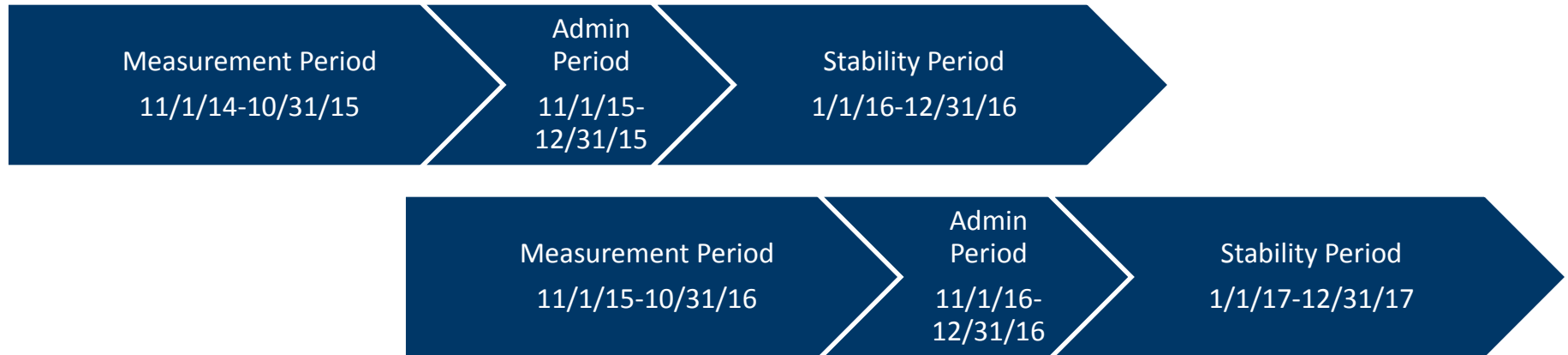
# Comparison of Methods

- Monthly:
  - Pro: This is basically the default method and much simpler.
  - Cons:
    - ◇ All employees measured each month regardless of status. For example, if a seasonal employee works 30 hours/week for several months, they need insurance.
    - ◇ Not feasible for most employers to add/drop employees throughout the year.
- Look-Back Measurement:
  - Pros:
    - ◇ Averages hours over longer period of time.
    - ◇ Better alignment with open enrollment.
    - ◇ Delays enrollment of variable-hour and seasonal employees
  - Cons:
    - ◇ Difficult to administer (essentially requires the use of software program).
    - ◇ Results in many “measurement periods” running simultaneously. One for on-going employees and multiple “initial measurement periods” as people are hired during year.
    - ◇ Still no special treatment for short-term employees or interns.



# Look-Back Example 1

- Facts:
  - On-Going Employee
  - Employer Uses 12 Month Measurement Period
  - Calendar Year Plan with November Open Enrollment
- Look-Back Periods:





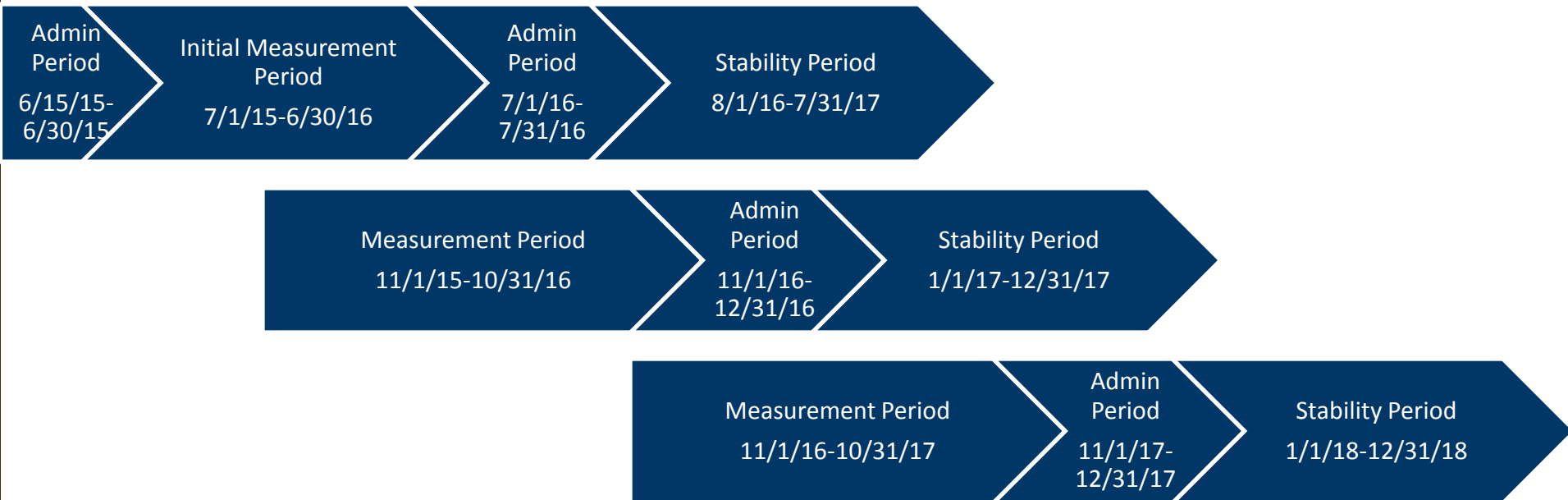
# Look-Back Example 1 (continued)

	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17			
Hours	120	120	120	140	140	140	140	140	90	100	120	120	120	120	120	140	140	140	140	140	140	140	140	120	120	120	120	140	140	140	140	140	140	140	140	140	120	120	120		
Average for Look-Back																																									
11/1/14-10/31/15 Measurement													124																												
11/1/15-10/31/16 Measurement																	133																								
Status																																									
Monthly	PT	PT	PT	FT	FT	FT	FT	FT	PT	PT	PT	PT	PT	PT	PT	FT	FT	FT	FT	FT	FT	FT	FT	PT	PT	PT	PT	FT	FT	FT	FT	FT	FT	FT	FT	FT	PT	PT	PT		
Look-Back	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	PT	FT	FT	FT	FT	FT	FT	FT	FT	FT	FT	FT	FT	FT	
Coverage																																									
Monthly	N	N	N	N	N	N	Y	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Look-Back	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	



# Look-Back Example 2

- Facts:
  - New Employee Hired 6/15/15 (Unable to Predict if EE Will Work 30 Hours/Week)
  - Employer Uses 12 Initial Measurement Period
- Look-Back Periods:



# Look-Back: Key Points to Remember

- Employees expected to work full-time are still subject to maximum 90 day waiting period
- Employers have some flexibility in setting the length of periods, but most choose 12 months
- Initial Administrative + Measurement Period cannot exceed 13 months plus a portion of another month
- In order to limit the number of initial measurement methods, many employers “split” the initial administrative period to lump together all new hires each month





# CLA Tools & Resources

# How We Can Help

## Form 1094/1095 Preparation

- Assist with Data Request
- Prepare Forms 1094 and 1095
- Manage Mailings and Electronic Filing Process

## Full-Time Status Determination for §4980H Employer Mandate

- Automate Data Feeds from Payroll and Benefits Systems
- Perform Calculations to Determine ACA Status by FEIN
- Provide Dashboards and Reports

## IRC §4980H Penalty Assistance

- Establish Exchange Notice Response Protocols
- Appeal IRS Penalty Assessments



# Where to Go for More Information

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## ACA Reporting and Compliance



Meet the ACA's annual reporting requirements and manage risk with tailored guidance from CLA industry professionals.

Effective for 2015, applicable large employers must file annual reports and monitor measurement periods to comply with the ACA's employer mandate. We understand the complexity of the health care law and can provide you with easy-to-understand solutions to help reduce your compliance and penalty risk.

Our customizable approach can include everything from preparing Forms 1095 and 1094, assisting with tracking employee status and offerings, IRS penalty assistance, and ACA modeling as needed.

Fill out our short form with details about your organization. We will provide you with a quote to help you with your ACA reporting.

**Send Me My Personalized Quote**

Name

Company

Address

City

State

Zip code

Email

Phone

<http://www.claconnect.com/forms/aca-reporting-and-compliance-guidance>

# ACA Reading Room

The screenshot shows the CliftonLarsonAllen website header. On the left is the CLA logo and the text "CliftonLarsonAllen". To the right is a navigation menu with links for "Industries", "Services", "Resources", "Events", and "Careers", along with a search icon. Below the navigation is a large banner image of two men in business attire looking at a tablet. To the right of the image is a blue text box with white text.

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Understanding the Affordable Care Act and its impact on your organization can be challenging. These resources can help you streamline your ACA compliance processes and prepare your organization to navigate new requirements as they are released.

NAVIGATING HEALTH REFORM

## Resources to Help Make Your ACA Reporting More Efficient

9/12/2016

Since the passage of the Affordable Care Act (ACA) in 2010, employers have spent a lot of time analyzing the potential impact of the law on their business. While implementing reporting requirements, employer mandates, and restrictions on benefit arrangements can be complex and time-consuming, staying up to date on changes to these regulations can help you avoid penalties and better understand your options as an employer.

### Articles

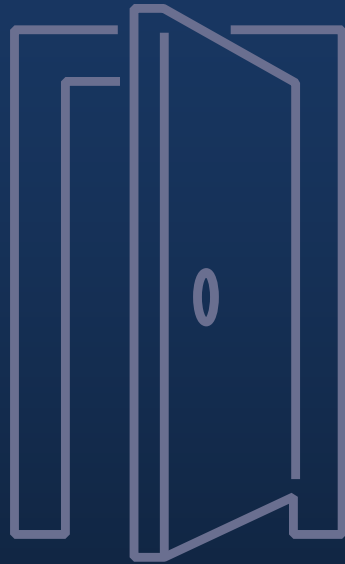


#### Affordable Care Act (ACA) Reporting and Compliance Services

Meet the ACA's annual reporting requirements and manage risk with guidance from CLA industry

<http://www.claconnect.com/resources/tools/aca-reading-room>





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**For more information on health reform:**

<http://www.claconnect.com/topics/health-care-reform-resources-for-providers#Resources>

**Email our health care reform experts at: [HealthCareReform@CLAconnect.com](mailto:HealthCareReform@CLAconnect.com)**

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