

## e-Alert

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# Summer Interns and the ACA

## Background

For many employers, the summer means interns. For employers who wish to hire interns, it's important to understand how the Affordable Care Act (ACA) requirement to offer health coverage to full-time employees also applies to interns.

The ACA requires ALEs (Applicable Large Employers) to offer affordable minimum value health coverage to their full-time employees or pay a penalty. Full-time employees are those expected to average at least 30 hours per week.

The IRS views interns as regular employees. If full-time interns are paid, they should be offered coverage as any other full-time employee. If the intern isn't full-time their hours should be measured, just as the ALE would do for any other non-full-time (or "variable hour") employees.

## Summary

### **Are your interns seasonal?**

There's quite a narrow exception for "seasonal employees". A seasonal employee is employed for six months or less, and the period of employment must begin each

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calendar year at approximately the same time, such as summer or winter.

If full-time employees (interns included) are seasonal employees, then they don't have to be offered coverage within 91 days of their date of hire. Instead, these employees are treated as variable hour employees, and the employee's hours are measured over the course of the employer's measurement period.

If every year, interns (whether or not they are the same people) work more than six months, the seasonal employee exception probably doesn't apply. For example, if an employer has interns that perform the same or similar work year-round, then the intern position is probably not seasonal, even if different individuals fill the internships at different times of the year.

The "period of employment" requirement specifically focuses on the reoccurring nature of the position. If some or all of your interns are hired only during the same time of year (for example, summer or tax season), this requirement could possibly be met. An intern is far more likely to be a seasonal employee if they are hired in response to seasonal business needs.

An intern may be seasonal if the internships are only available during a certain time of year due to external factors. For example, law firms typically hire law students during the summer as part of the law firm's regular recruiting calendar because law school is out. These summer associates may be seasonal employees if they meet the other requirements.

### **Practical Tips**

- Consider offering coverage to full-time interns. If you aren't sure your interns are truly seasonal, or you want to be sure you avoid any risk of a penalty, then offer your interns health insurance coverage. As a practical matter, most of them are likely on their parents' plans and won't take it. And in many cases internships only last a month or so longer than the new hire waiting period.
- Analyze and document your findings. If you want to categorize your interns as seasonal employees, be sure to do a careful analysis and document how you arrived at your determination.

- Not all internships are created equal. Even if you are comfortable that some of your intern positions are truly seasonal, others may not be. For that reason, a position-by-position analysis is advised.
- Watch out for season creep. If your interns (or any seasonal employees) work more than six months, then they really aren't seasonal for ACA purposes.

## Employer Next Steps

- Contact your Client Account Manager with any questions.

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