



ISSUE BRIEFING

July 2014

SUBJECT: 'Simplifying Technical Aspects Regarding Seasonality (STARS) Act of 2014'

Background:

Small seasonal employers in various industries across the country are confused about their obligations to their seasonal employees under the Affordable Care Act (ACA). Different definitions of seasonal, with different lengths of service, are used when determining whether a business is a small or large employer under the law and when determining which employees must be offered health insurance. The STARS Act would provide one clear definition of seasonal employment and align the seasonal provisions of the law, ensuring that small seasonal employers have the tools and understanding necessary to comply with the ACA and to continue to grow their businesses. The bill does not repeal or defund any provisions of the law. Seasonal industries impacted by the current muddled definitions of "seasonal" include agriculture, landscape, outdoor amusement, retail, hospitality, and tourism.

Under Current Law, Varying Definitions of "Seasonal Worker" Create Confusion

- When determining whether an employer is treated as a small or a large business (applicable large employer (ALE) under the ACA, "**seasonal worker**" is defined as "a worker who performs labor or services on a seasonal basis as defined by the Secretary of Labor." According to the Treasury Department regulations, employers may use a reasonable good faith interpretation to determine which employees are "seasonal workers." The length of employment for a seasonal worker is based on the nature of work performed and not on a numerical limitation.
- The term "**seasonal worker exception**," is used for the purpose of determining ALE size. Final Treasury regulations permit employers, after calculating their initial ALE size by including all hours of service performed by all employees (including seasonal workers), to examine the calculation to determine if seasonal workers put the employer over the 50 employee threshold for 120 days (4 calendar months) or less. This determination is made on an annual calendar year basis.
- Once an employer is determined to be an ALE for the calendar year, the employer must determine to whom coverage must be offered or pay a potential penalty. The employer can use a Monthly Measurement Method or an optional Look-back Measurement Method. Under Treasury regulations, the term "**seasonal employee**," for the purposes of determining an employee's full-time status under the optional Look-back Measurement Method, is defined as "an employee who is hired into a position for which the customary annual employment is six months or less."

The STARS Act Would Create One Simple Definition of "Seasonal Employee" and Simplify the ALE Determination

- Consistent with Treasury regulations, the STARS Act defines "seasonal employee" as a worker who is employed on a seasonal basis for 6 months or less during the calendar year.

The bill simplifies seasonal employer compliance by excluding seasonal workers from the complicated ALE calculation.

REQUESTED ACTION:

Please co-sponsor the STARS Act and work with your colleagues to promptly pass this needed technical correction to the ACA.