Even though the employer shared responsibility provisions of the Patient Protection and Affordable Care Act (PPACA) will not take effect until January 1, 2014, employers should start preparing for their compliance strategies this year.

For example, business owners and payroll personnel will want to determine if the employer mandate will apply to their company sooner rather than later. If PPACA's 'shared responsibility' provisions do apply, employers need to prepare in 2013 to ensure a smooth transition next year. Several issues need to be addressed to mitigate any potential challenges, covering issues such as how the baseline measurement period is calculated and the adequacy of coverage requirements are met.

Here are some of the most common questions employers have:

- Will my company have to comply with employer-shared responsibility provisions?
- What kind of insurance will my company have to provide?
- To whom will I have to provide insurance?
- What about seasonal, per diem, or part-time

Q. *Which employers are subject to employer-shared responsibility provisions?*

A. Employers are considered "applicable large employers" and therefore subject to the PPACA shared responsibility requirement if they employ 50 or more full-time employees or a combination of full-time and part-time employees that equals 50 full-time equivalent employees (FTEs). Applicable large employer status is determined based on the actual hours of work performed by employees in the prior calendar year or other designated measurement period.

An applicable large employer must offer health benefits to virtually all of its full-time employees and their dependents to avoid a tax penalty. Further, an employer could be subject to a different tax penalty if the coverage offered to full-time employees is either unaffordable or does not provide the requisite level of minimum value with respect to the employee. Likewise, penalties will be assessed based only on full-time employees who are either not offered coverage, or not offered affordable coverage. FTE employees will be calculated using both full- and part-time employees in the calculation.

Q. *What constitutes a full-time employee under PPACA?*

A. Under section 4980H(c)(4), a full-time employee is someone employed an average of at least 30 hours of service per week.

Q. *What constitutes a part-time employee under PPACA?*

A. While the Notice of Proposed Rule Making issued on this topic does not define a part-time employee, it is likely a part-time employee is anyone who does not fall under the full-time designation. It is possible that employers use designations other than part-time for purposes of defining employees who are not full-time. Part-time employees are included in the calculation to determine whether an employer will be required to offer health insurance starting January 1, 2014, as described below.

Q. *How do per diem or non-hourly employees fit in the mix?*

A. Per diem or non-hourly employees will be counted as full-time or part-time depending on the average hours of service worked either in the previous month or during the look-back period chosen by the employer. If the employee's per diem rate is based on an hourly rate, the employer should use the actual number of hours of service worked. If the per diem rate is based on a non-hourly basis, the employer is permitted to use one of the three methods detailed below in the non-hourly hours of service rates.

Q. *How does an employer calculate the number of full-time equivalent employees?*

A. Employers are considered "applicable large

employers" under PPACA and are therefore subject to the Employer Mandate if they employ 50 or more "full-time" employees or a combination of "full-time" and part-time employees that equals 50 "full-time" equivalent employees. "Applicable large employer" status is determined based on the actual hours of work performed by employees in the prior calendar year.

Note: PPACA allows the calculation of full-time employees and FTEs based upon several different measurement periods. For purposes of this example, we are using a calendar year.

To determine "applicable large employer" status, an employer must:

1. Count the number of "full-time" employees (including seasonal employees) who work on average 30 hours or more per week per month
2. Calculate the number of full-time equivalent employees by aggregating the number of hours worked by all non-full-time employees (including seasonal employees) and dividing by 120
3. Add the number of "full-time" employees and full-time equivalents calculated in steps (1) and (2) for each of the 12 months in the preceding calendar year, and
4. Add the monthly totals and divide by 12. If the average exceeds 50 full-time equivalents, the employer must also determine whether the seasonal employee exception applies

The seasonal employee exemption exists for employers whose workforce exceeds 50 full-time employees for no more than 120 days or four calendar months during a calendar year if the employees in excess of 50 employed during that period were seasonal employees. The four calendar months need not be consecutive. Until further guidance is issued, employers may use a reasonable, good faith interpretation of a seasonal worker, but the IRS emphasizes that the category of seasonal worker is not limited to agricultural or