Employer Shared Responsibility Provisions: 
Key Definitions

- **Employer**: Includes for-profit, non-profit and government entity employers
- **Common law definition of “employee” and “employer” applies**
- **Full-Time Employee**: an employee who is employed on average at least 30 hours per week
- **Full-Time-Equivalent (FTE) Employee**: a combination of employees, each of whom individually is not a full-time employee because they are not employed on average at least 30 hours per week, but who, in combination, are counted as the equivalent of a full-time employee
  - *For example, two employees, each of whom works 15 hours per week, are the equivalent of one full-time employee*

Note: Transition relief means that employer responsibility payments will not be collected for 2014
How does an employer count its full-time and FTE employees to know whether it has 50 or more?

- An employer is subject to Employer Shared Responsibility if it averaged a combination of full-time employees (including seasonal employees) and full-time equivalents that equals at least 50.

  **Example:** Company X has 40 full-time employees working 40 hours per week, along with 20 part-time employees working 15 hours per week. The 20 part-time employees are counted as 10 full-time equivalent employees. Company X has 50 full-time employees and is subject to the employer shared responsibility provisions.

- To determine whether it is subject to Employer Shared Responsibility for a given calendar year, the employer looks to the size of its workforce in the prior calendar year.

Note: Transition relief means that employer responsibility payments will not be collected for 2014.
How does a business know whether it is large enough to be subject to Employer Shared Responsibility?

1. **Full-time Employees**
   (Employee who averages 30 hours per week or 130 hours per month)

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   Subject to ESR if avg is ≥ 50 per month for the prior calendar year\(^1\)

2. **Full-time Employees**
   (Employee who averages 30 hours per week or 130 hours per month)

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   Subject to ESR if avg is ≥ 50 per month for the prior calendar year\(^1\)

   and

   **Full-time Equivalent Employees**
   (Aggregate hours worked by non-full-time employees in a month divided by 120)

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\(^1\) See Proposed Treasury Regulation §54.4980H-2 for seasonal worker exceptions and controlled group rules and examples in determining whether an employer is subject to employer shared responsibility.

Note: Transition relief means that employer responsibility payments will not be collected for 2014.
Special counting rules for determining whether an employer is subject to Employer Shared Responsibility

- **Aggregation Rule:** Certain affiliated employers with common ownership or who are part of a controlled group must aggregate their employees for purposes of determining whether they are subject to employer shared responsibility.

**Example:** For 2015 and 2016, Corporation P owns 100% of all classes of stock of Corporations S and T. This makes P, S, and T a controlled group of corporations under tax rules. P has no employees at any time in 2015. For every month in 2015, S has 20 full-time employees and T has 15 full-time employees and 15 full-time equivalents (FTEs). Because P, S, and T have a combined total of at least 50 full-time employees (or equivalents) during 2015, each of P, S, and T is subject to employer shared responsibility for 2016.

- **Seasonal Worker Exception:** If an employer’s workforce equals or exceeds 50 full-time employees (or equivalents) for 120 days or fewer during a calendar year solely due to seasonal workers, the employer is exempted from employer shared responsibility.

Note: Transition relief means that employer responsibility payments will not be collected for 2014.