

3 THINGS TO CONSIDER IN FLSA & ACA COMPLIANCE

It is impossible to comply with the ACA without first complying with the FLSA. Here are three areas of the FLSA that will actually prevent ACA compliance:



Compensable Time



Job Descriptions



Worker Classification

Compensable Time The ACA requires all Applicable Large Employers (ALE) to offer coverage to employees who have 30 hours of service per week/130 per month (FT). The law also requires employers to count hours of service (compensable time) for FT and full-time equivalent (FTE) to determine if they are an ALE.

If employers are not tracking time and paying it correctly (federal, state and local ordinances), their hours of service will be incorrect. There are other areas of FLSA to consider for compensable time like the Portal to Portal Pay Act and Donning and Doffing rules. It wouldn't take long to start missing 15 minutes here and there over the course of a week to put an employee over 30 hours, and perhaps the cumulative difference would make the employer an ALE.

Worker classification noncompliance is only exacerbated by the ACA. Focus on it has occurred for some time now by the DOL's Wage & Hour Division as well as the IRS. The ACA's employer mandate only covers common law employees. In addition to current penalties from the DOL and IRS for improper classification, penalties can be assessed if someone who should have been a common law employee was not offered coverage timely.

Worker Classification

Take the time to reexamine how you classify employees. Look at the behavioral and financial control and relationship you have with them. If you're still unsure, you can request assistance from the IRS using Form SS-8. Improper worker classification is costly anyway you look at it.

Job Descriptions One of the five most requested documents in a wrongful termination lawsuit is a job description. Lack of concise descriptions will also cause problems with keeping either your FT count at bay or having to cover individuals you didn't plan on. Now is a good time to do a comprehensive review of all job descriptions to see if they fit the location and job type they are assigned to. Assess them for FLSA and ACA compliance and finally train applicable staff to understand the importance of adhering to job descriptions.

Review your policies and procedures to confirm your FLSA and ACA compliance!