ALIGN DEFINITION OF “SEASONAL” UNDER AFFORDABLE CARE ACT

SAF’s “Ask”

Cosponsor and pass either H.R. 863, the Simplifying Technical Aspects Regarding Seasonality Act (STARS Act) or introduce similar legislation in the Senate to correct the complexity and confusion currently imposed on seasonal businesses by establishing a consistent definition of seasonal employment.

Seasonal employment has never been considered full-time employment and the various “fixes” used to address seasonality are confusing and broken. The Affordable Care Act (ACA) and regulations implementing it are inconsistent with one another and do not reflect actual seasonality or long-standing seasonal employment standards across varying industries and climates.

The ACA requires that employers subject to the statute’s Shared Responsibility for Employers provisions offer coverage to their full-time employees (and dependents) or face potential penalties. Internal Revenue Code §4980H defines a full-time employee as: “with respect to any month, an employee who is employed on average at least 30 hours of service per week.”

• Seasonal employment is not full-time: “fixes” inadequate and confusing

Simply put, there is no existing labor standard in which seasonal employment is considered full-time. The “seasonal exception” used in determining ACA business size is unnecessarily complicated and fails to address seasonal workforce practices across a wide variety of industries and climates. Rules to measure the full-time status of seasonal and temporary employees are confusing, creating obstacles to compliance for small seasonal businesses. Congress must reexamine and address the issue of seasonality to simplify compliance, to avoid significant workforce disruptions and to promote small business growth.

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