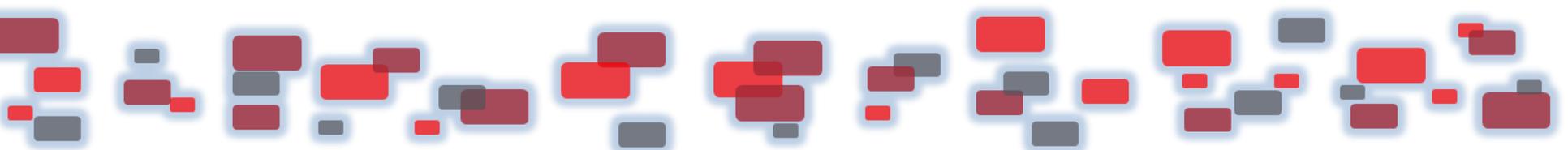


# Employee Status – Hours of Service

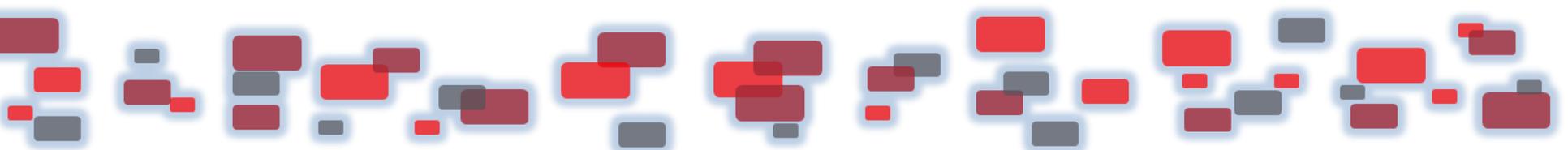
-  The concept of "hours of service" is relevant for purposes of determining applicable large employer status and in determining "average hours" for tracking variable hour employee eligibility
-  Consistent with the approach described in prior Department of Labor and Affordable Care Act guidance, the proposed regulations provide that, for these purposes, "hours of service" include not only hours when work is performed, but also hours for which an employee is paid or entitled to payment even when no work is performed (e.g., vacation and sick time)



# Employee Status – Hours of Service

-  Employees whose compensation is NOT based primarily on hours worked (such as salespeople compensated on a commission basis or adjunct faculty paid on the basis of credit hours taught)
-  Employees whose active work hours may be subject to safety-related limits (such as airline pilots), employers of such employees may use reasonable method to credit hours of service

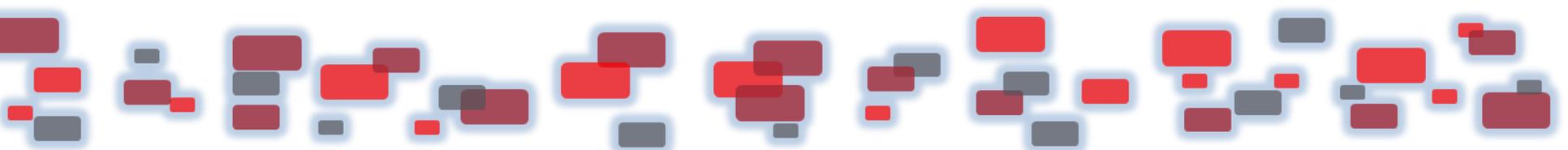
**RULE:** Until further guidance is provided, use a reasonable method of crediting hours of service consistent with the purposes of the employer shared responsibility provisions.



# Employee Status – New vs. Ongoing

-  Changing employment status is defined as a “material change in position of employment or other employment status that, had the employee begun employment in the new position or status, would have resulted in the employee being reasonably expected to be employed on average at least 30 hours per week.”
-  Break in Service rules -- 26 weeks or longer with no hours of service; employer can treat the employee as new employee and start a NEW initial measurement period (for employees where a break in service is less than 26 weeks, parity rules can be applied)





# Employee Status – New vs. Ongoing

-  Special Unpaid Leave and Employment Breaks For Educational Organizations -- FMLA, USERRA and Jury Duty -- An employer determines the employee's average hours of service for a measurement period by computing the average EXCLUDING any special unpaid leave (or employment break for educational organizations)
-  **RESULT:** Must offer that employee coverage, and that coverage must be effective in concert within the 90-day waiting period