

The ACA Employer Mandate & ACA Reporting

2026 Edition



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Guide Topics

The ACA Employer Mandate

Plus the Associated ACA Reporting Requirements

- The ACA employer mandate rules are frequently also referred to as the “employer shared responsibility” or “pay or play” rules—these are synonymous!
- There are two potential employer mandate penalties the “A Penalty” and the “B Penalty” from IRC §4980H(a) and §4980(b)
- Employers report whether they are subject to either penalty in the §6056 ACA reporting via Forms 1094-C and 1095-C
- We had a good faith enforcement safe harbor in prior ACA reporting years, but the IRS has confirmed it’s no longer available going forward
- Without the good faith relief, properly completing the ACA reporting with the correct codes, etc. takes on additional importance to avoid potential penalties

ACA Employer Mandate and Reporting Topics for Discussion:

1

Applicable Large Employers: ALE status determines whether employers are subject to these rules

2

Employer Mandate Penalties: Reviewing the A Penalty and B Penalty potential liabilities

3

Full-Time Employee Status: The monthly measurement method and look-back measurement method

4

Affordability: Utilizing an affordability safe harbor to avoid penalties, including the increased 2026 percentage threshold

5

ACA Reporting: Understanding the §6055 and §6056 reporting structure via Forms 1094-C and 1095-C, plus new relief

A man with dark hair and glasses, wearing a dark suit jacket over a light blue button-down shirt, is smiling and looking down at a smartphone he is holding in his hands. The background is a blurred indoor setting with warm lighting and architectural elements like a ceiling light fixture.

The ACA Employer Mandate

01

Applicable Large Employer (ALE)

The ACA's Employer Mandate: Basic Rules and Terminology

IRC §4980H Penalties First Applied as of January 1, 2015

Generally requires **applicable large employers** to offer **minimum essential coverage** that is **affordable** and provides **minimum value** to all **full-time employees** (and their children to age 26) to avoid potential penalties.

- **Applicable Large Employer:** Generally an average of at least 50 full-time employees (including full-time equivalents) in the preceding calendar year for all members of controlled group
- **Minimum Essential Coverage (MEC):** Includes virtually any employer-sponsored major-medical coverage (but not dental, vision, health FSA, EAP, disability, etc.)
- **Affordable:** Employee share of the premium for the lowest cost self-only plan option that provides minimum value does not exceed 9.96% (2026 indexed amount) of employee's income under one of three safe harbor approaches
- **Minimum Value (MV):** The percentage of the total allowed costs of benefits provided under the plan is no less than 60 percent (aka 60% actuarial value, at least as rich Bronze-level plan), and the plan provides substantial coverage of inpatient hospital services and physician services
- **Full-Time Employees:** Employees averaging at least 30 hours of service per week under:
 - [The Look-Back Measurement Method](#)
 - OR
 - [The Monthly Measurement Method](#)

Applicable Large Employer Status: Calculation

An employer is an applicable large employer (ALE) in the current year if it employed (along with all members of its controlled group) an average of at least **50 full-time employees (including full-time equivalent employees) on business days during the preceding calendar year**. For purposes of determining whether an employer is an ALE, the employer must convert part-time employees into full-time equivalents.

- *Note: Special rules apply for seasonal workers and certain veterans.*

1

Calculate the number of **full-time employees** for each calendar month in the preceding calendar year. For purposes of this calculation only, full-time employee means those who worked at least **120 hours of service in a month**. (Note that for all other purposes under the employer mandate rules, full-time is 130 hours of service per month)

2

Calculate the number of full-time **equivalents** for each calendar month in the **preceding calendar year** as follows:

- Calculate the aggregate hours of service in a month for employees who are **not** full-time employees for that month (i.e., did **not** work at least 120 hours of service in that month).
- Divide the total hours of service from Step A by 120. The result is the number of full-time equivalent employees for the month.

3

Add the number of full-time employees and full-time equivalents obtained in Steps 1 and 2 for each month of the preceding calendar year.

4

Add up the 12 monthly numbers from Step 3 and divide the sum by 12. This is the average number of full-time employees (including full-time equivalents) for the preceding calendar year.

5

If the number obtained in Step 4 is less than 50, then the employer is not an ALE for the current calendar year. If the number obtained in Step 4 is 50 or more, the employer is an ALE for the current calendar year.

Applicable Large Employer Status: Examples

Example 1

Employer's controlled group averaged **43** full-time employees (including full-time equivalents) in 2025.

Result:

Employer is **not** an ALE in 2026

What does the result mean?

- Employer **is not** subject to the employer mandate (no potential §4980H penalties) in 2026
- Employer **is not** subject to ACA reporting (§6055/ §6056 via Forms 1094-C and 1095-C) for the 2026 calendar year that is reported at the beginning of 2027
- Note: §6055 reporting via Forms 1094-B and 1095-B will apply if the employer offered a self-insured medical plan

Example 2

Employer's controlled group averaged **55** full-time employees (including full-time equivalents) in 2025.

Result:

Employer is an ALE in 2026

What does the result mean?

- Employer is subject to potential employer mandate penalties (under §4980H) in 2026
- Employer is subject to ACA reporting (§6055/ §6056 via Forms 1094-C and 1095-C) for the 2026 calendar year that is reported at the beginning of 2027

02

Employer Mandate Penalties



The ACA's Employer Mandate

§4980H Penalties

§4980H(a)—The “A Penalty” Aka: The “Sledgehammer Penalty”

- **Failure to offer MEC to at least 95% of all full-time employees (and their children to age 26)**
- The A Penalty is triggered by at least one such full-time employee who is not offered MEC enrolling in subsidized exchange coverage
- **2026 A Penalty liability is \$3,340 annualized (\$278.33/month) multiplied by all full-time employees**
 - **30 full-time employee reduction from multiplier**

§4980H(b)—The “B Penalty” Aka: The “Tack Hammer Penalty”

- Applies where the employer is not subject to the A penalty
- **Failure to:**
 - 1. Offer coverage that's affordable;**
 - 2. Offer coverage that provides MV; or**
 - 3. Offer MEC to a full-time employee (where employer offers at a sufficient percentage to avoid A Penalty liability)**
- The B Penalty is triggered by any such full-time employee enrolling in subsidized exchange coverage
- **2026 B Penalty liability is \$5,010 annualized (\$417.50/month) multiplied by each such full-time employee who enrolls in subsidized exchange coverage**
- Note that although the B Penalty amount is higher (\$5,010 vs. \$3,340), the multiplier is generally much lower (only those full-time employees not offered affordable/minimum value coverage who enroll in subsidized exchange coverage)

The ACA's Employer Mandate

§4980H Penalties

§4980H(a)—The “A Penalty” Aka: The “Sledgehammer Penalty”	§4980H(b)—The “B Penalty” Aka: The “Tack Hammer Penalty”
Simplified Version	Simplified Version
<ul style="list-style-type: none">• To avoid the “A Penalty” must offer MEC to at least 95% of full-time employees and their children to age 26• 2026 A Penalty liability is \$3,340 annualized (\$278.33/month) multiplied by all full-time employees (reduced by first 30)	<ul style="list-style-type: none">• To avoid the “B Penalty”, the offer of MEC must:<ul style="list-style-type: none">• Be affordable; and• Provide minimum value (MV)• 2026 B Penalty liability is \$5,010 annualized (\$417.50/month) multiplied by each such full-time employee who enrolls in subsidized exchange coverage

The ACA's Employer Mandate

§4980H Penalties

§4980H(a)—The “A Penalty” Aka: The “Sledgehammer Penalty”	§4980H(b)—The “B Penalty” Aka: The “Tack Hammer Penalty”
Historical Penalties	Historical Penalties
<ul style="list-style-type: none">• 2025: \$2,900• 2024: \$2,970• 2023: \$2,880• 2022: \$2,750• 2021: \$2,570• 2020: \$2,500• 2019: \$2,320• 2018: \$2,320• 2017: \$2,260• 2016: \$2,160• 2015: \$2,080	<ul style="list-style-type: none">• 2025: \$4,350• 2024: \$4,460• 2023: \$4,320• 2022: \$4,120• 2021: \$4,060• 2020: \$3,860• 2019: \$3,750• 2018: \$3,480• 2017: \$3,390• 2016: \$3,240• 2015: \$3,120

The “A Penalty” With Multiple Entities

“ALEM” Defined

- Subsidiaries and related entities with different EINs in an ALE’s controlled group are referred to as an “Applicable Large Employer Member,” or “ALEM”
- The controlled group itself is referred to as the “Aggregated ALE Group” (consisting of multiple ALEMs)

ALE Status is Aggregated, Penalties are Separated

- ALE status is an aggregated count among all members of the controlled group, but “A Penalty” calculations are siloed to each specific member (ALEM)
- **For employers with multiple corporate entities (generally multiple separate EINs) within the controlled group, the A Penalty will apply separately to each entity (ALEM)**
- Means the 95% test for the A Penalty applies to each ALEM independently
- If any ALEM fails to offer coverage to at least 95% of that ALEM’s full-time employees, the A Penalty applies to that ALEM
- The A Penalty calculation is based only on the full-time employees of that ALEM
- The 30-employee reduction will be a proportional amount based on ALEM size

The “A Penalty” With Multiple Entities

Example

- ALE Big Co. (1,000 EEs) acquires non-ALE Lil' Co. (40 EEs)
- Big Co. and Lil' Co. keep separate EINs and separate corporate entities

Result

- Lil' Co. becomes an ALEM subject to employer mandate as of the close
- If Lil' Co. fails to offer coverage to at least 95% of Lil Co.'s full-time employees in any subsequent month, Lil' Co. will be subject the A Penalty based only on the number of Lil' Co.'s full-time employees (Big Co.'s full-time employees are not part of calculation)
- 30-employee reduction will be a small proportional amount (in relation to overall controlled group number of employees, which is dominated by Big Co.)

03

Determining Employees' Full-Time Status

Determining Employee's Full-Time Status

ALEs subject to the ACA employer mandate rules generally must apply either measurement method to determine employees' full-time status:

- The monthly measurement method is generally recommended for employers with all or almost all full-time workforce
- The look-back measurement method is generally recommended for employers with a significant population of employees who may fluctuate above and below 30 hours per week

There Are Two Different Measurement Methods:

1

The Monthly Measurement Method (MMM)

- Full details:
<https://www.newfront.com/blog/the-aca-monthly-measurement-method>

2

The Look-Back Measurement Method (LBMM)

- Full details:
<https://www.newfront.com/blog/the-aca-look-back-measurement-method>

Determining Full-Time Status: The LBMM

Under the look-back measurement method (LBMM), employers test whether an employee averages 30 hours of service per week in a measurement period to lock in full-time or part-time status for the associated stability period. Employers can also place new variable hour, seasonal, and part-time employees in an initial measurement period prior to reaching full-time status.

- Full details:
<https://www.newfront.com/blog/the-aca-look-back-measurement-method>

Ongoing Employees

Generally, if the LBMM is used for one employee to determine full-time status, it must be used for all employees

- **Exception:**

Employer can choose separate measurement methods for:

- Hourly vs. salaried
 - Employees in different states
 - Union vs. non-union
 - Employees in different union groups
- **Typical Structure (Calendar Plan Year):**
 - Measurement period: 11/1 – 10/31
 - Administrative period: 11/1 – 12/31
 - Stability period: 1/1 – 12/31
 - *Note:* The 90-day administrative period limit prohibits measurement period running from 10/1. Many employers therefore use 10/15 or 11/1 as a starting point for the standard measurement period.

Determining Full-Time Status: The Look-Back Measurement Method

Stability Period Keeps Status “stable” Even After Reduction in Hours

The LBMM and Changes in Employment Status:

- The standard measurement and stability period rules will continue to apply to an employee who has experienced a reduction in hours, is furloughed, or is on a leave of absence
- The LBMM will therefore preserve full-time status for at least the remainder of the current stability period (generally plan year) for those employees who tested as full-time during the prior measurement period

Key Points Under the Look-Back Measurement Method:

Retaining Full-Time Status

1 An employee who is in a stability period as full-time and experiences a change in employment status to working part-time hours or going on a leave will nonetheless remain full-time for ACA purposes the duration of the current stability period. The employee's full-time status is kept “stable” for the entire stability period regardless of how many hours per week the employee is currently working.

Losing Full-Time Status

2 Employees who do not average at least 30 hours of service over the full standard measurement period (i.e., generally do not reach 1,560 hours of service in the typical 12-month standard measurement period) can be removed from coverage as of the start of the new stability period (generally the start of the new plan year) because the employee will be treated as part-time for ACA purposes for the duration of that stability period. This will be a COBRA qualifying event as of the end of the plan year in which the employee loses coverage (loss of coverage caused by a reduction in hours).

LBMM: New Hires

When to Offer Coverage Under the LBMM

- New full-time employees must be offered coverage by the first day of the fourth full calendar month of employment to avoid potential penalties
- New variable hour, seasonal, and part-time employees may be placed in an initial measurement period before being treated as full-time
 - Combined duration of initial measurement period and initial administrative period cannot exceed 13 months (plus a partial month for mid-month hires)

Typical Structure for New Variable/Seasonal/Part-Time Employee

Example:

- Hired on March 15, 2026
- **Initial administrative period:** 3/15/26 – 3/31/26 (front-end of split administrative period)
- **Initial measurement period:** 4/1/26 – 3/31/27
- **Initial administrative period:** 4/1/27 – 4/30/27 (back-end of split administrative period)
- **Initial stability period:** 5/1/27 – 4/30/28
- Note: Special rule permits 11-month initial measurement period, which would allow a two-month back-end initial administrative period. Many employers choose that approach.

New Hires: Utilizing the LBMM

New Full-Time Employee	New Variable Hour Employee	New Seasonal Employee	New Part-Time Employee
An employee who is reasonably expected at the employee's start date to be a full-time employee (i.e., average 30 hours of service per week)—and is not a seasonal employee.	The employer cannot determine at new hire's start date whether the employee is reasonably expected to complete on average at least 30 hours of service per week during the initial measurement period.	An employee who is hired into a position for which the customary annual employment is six months or less.	An employee who is reasonably expected to average less than 30 hours of service per week during the initial measurement period.
<ul style="list-style-type: none"> Factors include whether the prior person in the position averaged 30 hours of service per week, and whether the job was advertised/communicated as requiring 30 hours of service per week. Employer mandate penalties do not start until after the employee has completed a limited non-assessment period. No penalties will apply until the first day of the fourth full calendar month of employment—if the employee is still employed on that day. 	<ul style="list-style-type: none"> This occurs because the employee's hours are expected to be variable or otherwise uncertain. May apply an initial measurement period and initial administrative period before offering coverage in initial stability period (if the variable hour employee tested as full-time during the initial measurement period). Limit on combined length of initial measurement period and initial administrative period is 13 months (plus a partial month for a mid-month hire). 	<ul style="list-style-type: none"> The period should begin each calendar year in approximately the same part of the year, such as summer or winter. In certain unusual circumstances, the employee can still be considered seasonal if the employment period is extended beyond its customary duration (e.g., ski instructor works seven months in heavy snow winter). Same initial measurement and initial administrative period rules apply. 	<ul style="list-style-type: none"> Same initial measurement and initial administrative period rules apply. As with variable hour and seasonal employees, the employer will not need to offer coverage to avoid employer mandate penalties if the part-time employee does not <ul style="list-style-type: none"> A. test as full-time during the initial measurement period, or B. remain employed long enough to reach the initial stability period.



Determining Full-Time Status: The MMM

Under the monthly measurement method (MMM), an employee's status as full-time or part-time is determined on a monthly basis by the employee's hours of service for each calendar month. This method does not provide the predictability of the look-back measurement method.

Employers will not know whether employees are full-time until the month is complete, and all hours recorded.

However, for primarily full-time workforces this method avoids significant complexity.

- Full details:
<https://www.newfront.com/blog/the-aca-monthly-measurement-method>

Ongoing Employees

- Full-time status is determined by actual hours of service performed in that month
- There is no look-back period to lock in an employee's status as full-time or part-time
- **Use the monthly measurement method when it is clear that employees working at least 130 hours of service in any given calendar month will be offered coverage (e.g., all full-time workforce)**

Advantages:

- Administrative simplicity for workforces with generally stable hours
- Limited non-assessment period available the first time an employee works full-time in a month

Disadvantages:

- No predictability as to full-time/part-time status for the plan year because it is determined monthly
- Not feasible for workforces with a significant population that regularly fluctuates above and below 130 hours
- Can't determine hours of service in the month until it has been completed (when it's too late to offer coverage)
- No initial measurement period available to delay offering coverage to new variable/seasonal/part-time hires

Monthly Measurement Method

New Hires

- **Three-month rule:** Can be applied **only once** per period of employment.
- Applies when an employee first works at least 130 hours of service in a calendar month.
 - This might be the first month of employment or a subsequent month.
- First month working 130 hours of service triggers the three-month rule.
- **Creates a limited non-assessment period of two full calendar months following the end of that first calendar month.**
- Think of this limited non-assessment as providing relief during the plan's waiting period for coverage after the employee triggers eligibility by working full time for a month.

Monthly Measurement Method

Example

- Employee is hired in January
- Employee works 125 hours of service for January and February (**130 is full-time**)
- Employee works 135 hours of service in March

Result

- **March full-time work triggers:**
 - **Eligibility for the health plan, and**
 - **The three-month rule's limited non-assessment period**
- Employer will need to offer coverage to the employee within its waiting period per the terms of the plan
- Limited non-assessment period accommodates maximum potential waiting period by not imposing employer mandate penalties for the months of March, April, May
- Employer must offer coverage that is affordable and provides minimum value by the first day of June to avoid penalties for March through May and beyond

04

Contingent Workforce



Temps/Interns/Short-Term EEs

There are no special employer mandate rules for temps, interns, or short-term employees

“The Treasury Department and the IRS continue to be concerned about the potential for abuse of any exception for short-term employees through the use of initial training period positions or other methods intended to artificially divide the tenure of an employee into one or more short-term employment positions in order to avoid application of section 4980H. **For these reasons, the final regulations do not adopt any special provisions applicable to short-term employees.**”

This means the same rules will apply to short-term employees as any other new hire

In some cases, not offering coverage to these short-term employees may subject the employer to potential employer mandate penalties under §4980H.

- More details: [Health Coverage for Temps and Interns](#)

Strategies for Temps and Interns

More details: [Health Coverage for Temps and Interns](#)

1	Offer Coverage on the Same Basis as Regular Full-Time Employees
2	Delay Offer of Coverage to First Day of Fourth Full Calendar Month
3	Limit Medical Plan Option(s) Offered
4	Exclude Health Benefits Other than Medical (e.g., Dental/Vision)
5	Exclude Spouses (but not Children!)
6	Combination of Above Options
7	Seasonal Employee 13+ Month Initial Measurement/Administrative Period (LBMM Only)
8	Expose Company to Potential “B Penalty” Liability

Utilizing an Outside Staffing Firm

Threshold Issue

Threshold issue is whether the temp hired through a temp agency is a “common-law employee” of your company or the temp agency.

Treas. Reg. §54.4980H-1(a)(15):

“The term employee means an individual who is an employee under the common-law standard.”

This means ER mandate penalties will apply only if the temp is your company’s common-law employee:

“Under the common law standard, an employment relationship exists when the person for whom the services are performed **has the right to control and direct the individual who performs the services**, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. Under the common law standard, an employment relationship exists if an employee is **subject to the will and control of the employer** not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so.”

Three Factors to Determine the Employment Relationship

The IRS makes clear in preamble to final regulations that in the “typical case,” the temp will be a common-law employee of the company hiring the temp—**not the outside staffing firm.**

<http://www.irs.gov/taxtopics/tc762.html>

1

Behavioral Control

Right to direct and control work

2

Financial Control

Right to direct or control financial and business aspects

3

Relationship of the Parties

Facts and circumstances of arrangement

Utilizing an Outside Staffing Firm

Assuming the worker from the staffing firm is your common-law employee, your company must offer coverage to avoid penalties in the same manner as a standard employee on your payroll.

However, the rules establish a procedure where an offer of coverage by the outside staffing firm will be treated as an offer of coverage by the company:

Treas. Reg. §54.4980H-4(b)(2):

“(2) Offer of coverage on behalf of another entity...For an offer of coverage to an employee performing services for an employer that is a client of a staffing firm, in cases in which the staffing firm is not the common law employer of the individual and the staffing firm makes an offer of coverage to the employee on behalf of the client employer under a plan established or maintained by the staffing firm, the offer is treated as made by the client employer for purposes of section 4980H **only if the fee the client employer would pay to the staffing firm for an employee enrolled in health coverage under the plan is higher than the fee the client employer would pay the staffing firm for the same employee if that employee did not enroll in health coverage under the plan.**”

Utilizing an Outside Staffing Firm

Note: Flat fee increase for all employees is not sufficient here—fee must increase only for those who enroll

- Make sure your contract with the staffing firm is updated to reflect this requirement.
- **Full details:**
<https://www.newfront.com/blog/aca-employer-mandate-and-outside-staffing-firms-2>

Two Requirements:

1

The staffing firm must offer coverage to the employee;

&

2

The company must pay an increased fee to the staffing firm for each employee who enrolls in the outside firm's offer of coverage

05

Leaves and Rehires



Leaves of Absence

Paid Leave of Absence	Unpaid Leave	“Special” Unpaid Leave
<p>Paid leave is considered hours of service for purposes of employer mandate.</p>	<p>An unpaid leave of absence that does not qualify as “special unpaid leave”.</p>	<p>Unpaid leave that is:</p> <ul style="list-style-type: none"> • Subject to FMLA • Subject to USERRA; or • On account of jury duty
<ul style="list-style-type: none"> • This is because with paid leave, the employee is entitled to payment for a period during which no duties are performed due to the leave of absence. • Means that a period of paid leave will be treated the same as a period of active employment duties. • When using the look-back measurement method, the employee will have hours of service credited in the measurement period for the duration of the paid leave as if active or on paid vacation. 	<ul style="list-style-type: none"> • In this case, the employee will not receive any hours of service credit. • When using the look-back measurement method, the employee will have no hours of service for the duration of the unpaid leave. • If the employee is at or near 30 hours per week when active, the period of unpaid leave could cause the average over the course of the full measurement period to dip below 30—resulting in the employee being treated as part-time for the associated stability period. 	<ul style="list-style-type: none"> • When using look-back measurement method, two options for addressing special unpaid leave: • Excluded Period: Exclude the period of special unpaid leave from the measurement period computation by determining the employee’s average hours of service without the period of special unpaid leave. <p>OR</p> <ul style="list-style-type: none"> • Imputed Hours: Credit the employee with hours of service during the period of special unpaid leave at a rate equal to the average weekly hours of service for weeks that were not part of the special unpaid leave.



Returning From a LOA and Rehires

Break in Service: 13 or more consecutive weeks	Break in Service: Rule of Parity	No Break in Service: Continuing Employee
<p>Where the employee did not have an hour of service for the company for a period of at least 13 consecutive weeks.</p>	<p>Rule of parity applies where the break in service is at least four consecutive weeks, but shorter than 13 consecutive weeks (26 weeks for educational organization).</p>	<p>Where the period of leave (or period between termination and rehire) is not a break in service, the returning employee must be treated as a “continuing employee”.</p>
<ul style="list-style-type: none"> • Upon return from leave, the employee can be treated as a new employee. • The same principles in this case would apply to a new hire. • If full time, must offer coverage no later than the first day of the fourth full calendar month to avoid penalties. • If variable hour, seasonal, or part-time, employer can put the returning employee through a new initial measurement period before offering coverage. • Note that the break period must be 26 weeks to treat the employee as a new employee if the employer is an educational organization. 	<ul style="list-style-type: none"> • Under the rule of parity, a break in service occurs if the employee’s period with no credited hours of service is longer than the employee’s immediately preceding period of employment. • For example, employee works three weeks for an employer prior to going on unpaid leave (not “special”) of ten weeks. <ul style="list-style-type: none"> • The ten-week period with no hours of service is a) at least four weeks long, and b) longer than the immediately preceding three-week period of employment. • Under the rule of parity, this is a break in service, and the employer may treat the employee as a new employee upon return. 	<ul style="list-style-type: none"> • Under the look-back measurement method, a continuing employee will return to the same status in the stability period. • This means that if the continuing employee returns in a stability period in which the employee was being treated as full-time before the leave, the employee will be treated as full-time upon return and through the end of the stability period. • Continuing full-time employees enrolled prior to termination must be offered coverage upon first day of return, or, if later, as soon as administratively practicable • Rules deem first day of the calendar month following return to always comply under this standard.

06

Hours of Service



General Hours of Service Rules

Treas. Reg. §54.4980H-1(a)(24) defines an “hour of service” as follows:

- **Active Duties:** Each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer; and
- **Inactive Payments:** Each hour for which an employee is paid, or entitled to payment by the employer for a period during which no duties are performed due to:
 - Vacation,
 - Holiday,
 - Illness,
 - **Incapacity (including disability),**
 - Layoff,
 - Jury duty,
 - Military duty, or
 - **Leave of absence**

Treas. Reg. §54.4980H-3(b) sets forth the calculation rules:

Hourly Employees:

- **Actual Hours:** Employer must calculate actual hours of service from records of hours worked and hours for which payment is made or due
 - Generally straightforward data from payroll
 - Special exceptions for hard to track hours

Non-Hourly Employees (e.g., Salaried):

1. **Actual Hours:** Use actual hours of service from records of hours worked and for which payment is made or due;
2. **Days-Worked Equivalency:** Employee is credited with eight hours of service for each day the employee is paid or entitled to pay; or
3. **Weeks-Worked Equivalency:** Employee is credited with 40 hours of service for each week the employee is paid or entitled to pay

Employees on Leave: Inactive Payments and Hours of Service

Included in Hours of Service	Excluded From Hours of Service
<ul style="list-style-type: none">• IRS confirmed that payments are generally deemed to be made by the employer regardless of whether the payment is made directly by the employer<ul style="list-style-type: none">• For example, payments made from an insurance carrier or trust fund to the employee are still considered made by the employer• Most disability payments (other than state statutory plans) count as hours of service if the employee has not been terminated from employment<ul style="list-style-type: none">• Includes STD and LTD—even where benefit payments made by carrier	<ul style="list-style-type: none">• Workers' compensation payments• Unemployment payments<ul style="list-style-type: none">• State disability payments (or voluntary replacements to comply with state STD requirements)• California SDI• California Voluntary Plan• Statutory disability plans (or private replacements) in Hawaii, New Jersey, New York, and Rhode Island• Disability plan payments made from arrangements to which the employer did not directly or indirectly contribute<ul style="list-style-type: none">• Requires that the premium was exclusively paid by employee after-tax contributions to qualify

Hours of Service—In the Weeds

Applying Non-Hourly Employee Methods

- Again, these are actual hours, days-worked equivalency (8 hours/day), and weeks-worked equivalency (40 hours/week).
- Employers are not required to use the same method for all non-hourly employees.
- May apply different methods to different categories of non-hourly employees as long as the categories are reasonable and consistently applied.
- Employers may change the method for each calendar year.

Prohibited Non-Hourly Employee Methods

- Method applied must “**reflect generally**” the hours actually worked and the hours for which payment is made or due.
- **One employee:** Can't use an equivalency method that would “**substantially understate**” an employee's hours to cause that employee to not be full-time.
- **Group of employees:** Can't use an equivalency method that would understate the hours of a “**substantial number of employees**” (even if no particular employee's hours are understated substantially or caused to lose full-time status).
- **Example:** Employer may not use a days-worked equivalency for an employee who works three 10-hour days per week. This would cause the employee to have 24 hours per week and be part-time instead of 30 hours actually worked and full-time status.

Hours of Service—In the Weeds

Excluded Types of Work

- **Bona Fide Volunteers:** Employees of a government entity or 501(c) whose compensation is limited to reimbursement for expenses or reasonable benefits and nominal fees
- **Work-Study Students:** Services performed as part of a work-study program
 - All other types of student employees will have hours of service
 - IRS feared that blanket exception for paid internships or externships would lead to potential abuse
- **Service Outside the U.S.:** Compensation that is not U.S. source income
- **Vow of Poverty:** Religious orders do not need to count service by members who are subject to a vow of poverty for tasks usually required of active members

Rules for Hard to Track Hours

- **Adjunct Faculty:** Employers may credit adjunct faculty with 2.25 hours of service per week for each hour of teaching or classroom time, 1.25 hours of service for class prep and grading, and one hour of service for office hours and faculty meetings.
- **Layover Hours:** Where the employee is not paid extra for the layover hours, the employer may credit the employee with 8 hours of service for each day the employee is required to stay away from home overnight—16 hours total for the two days encompassing an overnight stay.
- **On-Call Hours:** Must use a reasonable method to credit hours—includes requirement to credit hours for any paid on-call hours, or where the employee's on-call time is substantially restricted.

07

Avoiding Penalties



2026 Affordability Safe Harbors: 9.96%

The employer mandate affordability safe harbors are indexed to a metric based on the rate of premium growth over the rate of CPI growth for the preceding year. For 2026, the applicable percentage increases to **9.96%** (up from 9.02% in 2025).

Full Details Available Here: [The ACA Affordability Determination in 2026](#)

- **2026 Federal Poverty Line Safe Harbor:** 9.96% of the Federal Poverty Line
 - Prior-Year Federal Poverty Line (Contiguous 48 States): \$15,650
 - 2026 Monthly Employee-Share of Premium for Lowest-Cost (Minimum Value) Plan Limit: **\$129.89**
 - *Action Item: Always use this approach where the employer offers plan option at a cost that does not exceed \$129.89/month*
- **2026 Rate of Pay Safe Harbor:** 9.96% of Rate of Pay
 - Hourly Employees: 9.96% of Employee's Hourly Rate of Pay x 130 Hours (regardless of actual hours of service)
 - Salaried Employees: 9.96% of Employee's Monthly Salary
 - *Action Item: Use this approach where the employer's cheapest (minimum value) plan option costs employees more than \$129.89/month*
- **2026 Form W-2 Safe Harbor (Not Recommended):** 9.96% of Box 1 Wages
 - *Disadvantage #1: Retrospective Determination*—Form W-2 safe harbor provides no predictability because Box 1 unknown until January of following year (i.e., employer will not know until January 2027 whether it met the Form W-2 safe harbor for 2026)
 - *Disadvantage #2: Disregarded Compensation*—Box 1 does not include many forms of compensation, including 401(k) deferrals and Section 125 salary reductions for health and welfare plan coverage
 - *Disadvantage #3: Fixed Premium*—The employee-share of the premium must remain consistent as an amount or percentage for the full plan year, which means employers cannot make mid-year adjustments to address lower-than-anticipated Box 1 amounts



ACA Affordability: Opt-Out Credits

“Eligible Opt-Out Arrangement” Approach Avoids Affecting Affordability

- Employers often offer employees an additional amount of taxable cash compensation if they waive the health plan
- Unless they are properly structured, these “opt-out credits” (aka “cash-in-lieu”) can cause the employer’s offer of coverage to fail to meet one of the ACA affordability safe harbors
- Opt-out credits that are not designed to qualify as an “eligible opt-out arrangement” must be added to the employee-share of the premium when determining affordability—this is not intuitive!
- For example, if the employer’s lowest-cost plan option is \$100/month and the opt-out credit is \$50/month, under the general rule the plan costs \$150/month (\$100/month premium plus \$50/month opt-out credit) for affordability purposes to reflect the \$50/month the employee forgoes by electing the health plan*
- **Note: The IRS has indefinitely delayed these eligible opt-out arrangement rules for arrangements in effect prior to 12/16/15*

Eligible Opt-Out Arrangement Requirements:

1. The opt-out credit is conditioned on the employee declining to enroll in the major medical plan; **and**
2. The opt-out credit is conditioned on the employee providing reasonable evidence (including an employee attestation) annually that the employee and all members of the employee’s expected tax family have or will have minimum essential coverage under a group health plan (or Medicare/TRICARE) for the period the opt-out credit applies

ACA Affordability: Flex Credits

“Health Flex Contribution” Approach Treats Flex Credits as Employer Contribution

- Some employers use a flex credit approach under the Section 125 cafeteria plan whereby employees may allocate a fixed amount of credits to different qualified benefits
- Often these flex credits can be allocated to non-health benefits or cashed-out as taxable income
- Unless the flex credits are properly structured, the flex credit amount available for employees to allocate to the health plan will be treated as an employee contribution for ACA affordability purposes
- Employers generally need to make the flex credits count as an employer contribution to meet one of the ACA affordability safe harbors—this requires that the flex credits qualify as “health flex contributions”

Health Flex Contributions Requirements:

1. The employee may not opt to receive the amount as a taxable benefit (i.e., it is not a cashable flex credit);
2. The employee may use the amount to pay for minimum essential coverage (i.e., the employee’s major medical plan);
and
3. The employee may use the amount exclusively for health coverage costs (e.g., medical, dental, vision, health FSA, HSA)

IRS Fixed the ACA “Family Glitch”

Moved the Premium Tax Credit (PTC) Eligibility Analysis to Employee Cost for Each Family Member

The ACA Family Glitch	The Family Glitch “Fix”	The Cafeteria Plan “Fix”
<ul style="list-style-type: none">• The PTC subsidy structure was previously based only on cost of employee-only coverage• Employer mandate requires ALEs to offer coverage that is “affordable” to avoid B Penalties• Affordability is based solely on the employee-share of the premium for self-only coverage• Individuals do not have access to PTC subsidies for exchange coverage if employer offer of coverage is affordable• If the employer plan is affordable under employee-only standard, prior interpretation was that plan was affordable for all family members—even if cost was very expensive for family members	<ul style="list-style-type: none">• New <u>regulations</u> analyze affordability for each family member individually• Means that if the employee is offered affordable self-only coverage, family members may now be treated as not having received affordable offer• This opens the door to family members having access to the PTC for subsidized exchange coverage• Does <u>not</u> affect the employer analysis from employer mandate perspective—penalty liability still based on whether employee-only coverage is affordable• Does <u>not</u> affect ACA reporting via Forms 1094-C/1095-C	<ul style="list-style-type: none">• IRS created a <u>new Exchange-related permitted election change event</u> to address family member PTC access• Allows employees to revoke coverage for dependents to access PTC where:<ol style="list-style-type: none">1. Family member is eligible for SEP to enroll in Exchange coverage or seeking to enroll in Exchange during its open enrollment period; and2. Employee is revoking coverage for family member who will enroll in Exchange no later than the day immediately following the last day coverage revoked• Employer may rely on employee’s reasonable representation• New event became available for cafeteria plan elections on or after January 1, 2023• Plan amendment required by end of plan year when adding to cafeteria plan

Responding to Letters From the Exchange

Employer Exchange Notices Are the First Bite at the Apple!

- Notifies employers that the exchange has conditionally approved the employee for the Advance Premium Tax Credit (APTC)
 - Commonly referred to as “exchange subsidies”
- These subsidies trigger ACA employer mandate penalties
- **Employers care:** Remove subsidy, remove §4980H penalty (no subsequent Letter 226J)
- **Employees care:** Remove subsidy, remove need to pay it back on tax return

Employer Exchange Notice Approach	Employer Offered Affordable/MV MEC	Employer Did NOT Offer Affordable/MV MEC
Full-time Employee	Strongly Recommend Appeal <ul style="list-style-type: none">• Prevent ACA Employer Mandate §4980H Penalties• Prevent Repayment of APTC	Do Not Appeal <ul style="list-style-type: none">• Employer will receive Letter 226J with §4980H penalties
Part-time Employee	Consider Appeal <ul style="list-style-type: none">• Prevent Repayment of APTC	Do Not Appeal <ul style="list-style-type: none">• Nothing to Appeal here

ACA Employer Mandate Penalties are Real

IRS Letter 226J

- Applicable Large Employers (ALEs) have been receiving ACA employer mandate penalty assessments since late 2017
- ALEs continue to be informed of prior year penalty assessments
- Many penalties are the result of ACA reporting errors on the Forms 1094-C and 1095-C
- Explanation of reporting errors and corrected codes usually removes penalties
- Keep relevant data because Letters 226J are generally for two years prior
- Review full alert for details on how to respond to Letter 226J

Dear

We have made a preliminary calculation of the Employer Shared Responsibility Payment (ESRP) that you owe.

Proposed ESRP \$ [XXXXXX]

Our records show that you filed one or more Forms 1095-C, Employer-Provided Health Insurance Offer and Coverage, and one or more Forms 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, with the IRS. Our records also show that for one or more months of the year at least one of the full-time employees you identified on Form 1095-C was allowed the premium tax credit (PTC) on his or her individual income tax return filed with the IRS. Based on this information, we are proposing that you owe an ESRP for one or more months of the year.

Full Details Available Here:
[Responding to IRS Letter 226J](#)

ACA Reporting: Forms 1094-C & Form 1095-C

Background

The ACA Added Two New Tax Code Sections: §6055 & §6056

§6055

- Requires providers of health coverage to report to the IRS and covered individuals that the persons were covered by “minimum essential coverage.”
- This will demonstrate that each person has satisfied their individual mandate, and therefore will not be subject to the tax penalty.

§6056

- Applies to “applicable large employers”—or “ALEs”—subject to the employer mandate rules—generally employers with at least 50 full-time employees, including full-time equivalent employees.
- This will be used to determine whether the employer is subject to any ER mandate penalties under §4980H.
- It will also be used to determine whether the individual is eligible for the premium tax credit on the Exchange.

Which Employers Need to Report?

Self-Insured Medical Plan

- All employers with a self-insured medical plan (including level-funded plans) must report regardless of size
- Non-ALE employers under 50 full-time employees (plus full-time equivalents) will be reporting only for §6055 (minimum essential coverage) via Forms 1094-B and 1095-B
- Employers that are “applicable large employers” will report both for §6055 (minimum essential coverage) and §6056 (employer mandate) via Forms 1094-C and 1095-C

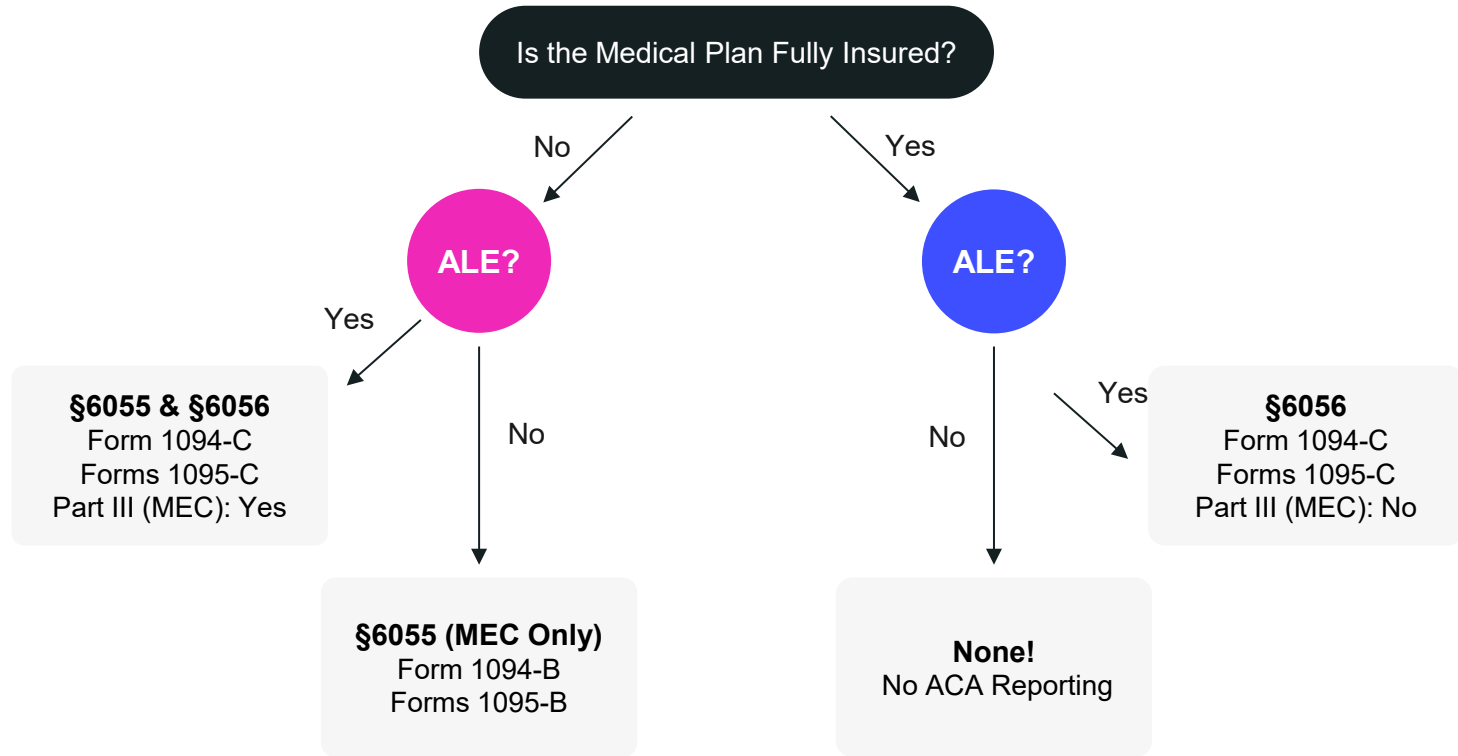
Insured Medical Plan

- Only “applicable large employers” – those with 50 or more full-time employees (plus full-time equivalents).
- **For insured plans, the insurance carrier reports for §6055 (minimum essential coverage) via 1095-B**
- However, the insurance carrier will not report for §6056 (employer mandate)—that is always the employer’s responsibility via Forms 1094-C and 1095-C

Full Details Available Here:

[The ACA Reporting Requirements in 2026](#)

Which Employers Need to Report?



Which Plans are Considered Self-Insured?

General Rule: Plans That are Not Fully Insured are Treated as Self-Insured for Compliance Purposes

It is helpful to think of the distinction among funding arrangements as follows:

- Fully Insured; and
- Not Fully Insured (including self-insured and level-funded)

Plans that are not fully insured (i.e., no insurance policy) are treated as a self-insured plan for compliance purposes.

Level-Funded Plans are Treated as Self-Insured Plans for Compliance Purposes

- Level-funded plans are not fully insured, and therefore they are treated as self-insured for compliance purposes
- These are arrangements where the employer pays a level fee each month to the TPA (includes an administrative fee, estimated cost for benefits, and a stop-loss premium)
- If the plan's claims experience is lower than expected in a level-funded plan, the employer will share in the surplus

Technical Definition of Self-Insured: §105

- IRC §105(h)(6):
 - “The term ‘self-insured medical reimbursement plan’ means a plan of an employer to reimburse employees for expenses referred to in subsection (b) for which reimbursement is **not provided under a policy of accident and health insurance.**”

Technical Definition of Self-Insured: §105 Regulations

- Treas. Reg. §1.105-11(b)(1)(i):
 - “A plan or arrangement is self-insured unless reimbursement is provided under an individual or **group policy of accident or health insurance issued by a licensed insurance company....**”

Remember: Level-Funded Plans Treated as Self-Insured

- Level-funded plans feel like a hybrid because of the level payment approach, but they are **not** fully insured (no policy of insurance)
 - Plans (including level-funded plans) that are not fully insured are treated as self-insured for compliance purposes
 - *Always apply self-insured plan rules to level-funded plans!*

09

Form 1094-C



1094-C Transmittal Form

Think of this as the cover sheet for the Forms 1095-C.

- All ALEs must file a Form 1094-C
 - If the ALE has multiple entities, each entity (ALEM) must file a separate Form 1094-C
- Must be one “Authoritative Transmittal” for each member of the controlled group.

Information Reported

- Name, contact information, and EIN of the employer
- Whether the employer offered MEC to at least 95% of full-time employees for each month in the calendar year
- Total number of employees and full-time employees in each month
- Whether any streamlined reporting provisions apply
 - e.g., Qualifying Offer Method
 - e.g., 98% Offer Method



1094-C: Transmittal Form

- Page 1

12011A

Form 1094-C <small>Department of the Treasury Internal Revenue Service</small>	Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns <small>Go to www.irs.gov/Form1094C for instructions and the latest information.</small>	<input type="checkbox"/> CORRECTED 2024 <small>OMB No. 1545-2251</small>
Part I Applicable Large Employer Member (ALE Member)		
1 Name of ALE Member (Employer)		2 Employer identification number (EIN)
3 Street address (including room or suite no.)		
4 City or town	5 State or province	6 Country and ZIP or foreign postal code
7 Name of person to contact		8 Contact telephone number
9 Name of Designated Government Entity (only if applicable)		10 Employer identification number (EIN)
11 Street address (including room or suite no.)		
12 City or town	13 State or province	14 Country and ZIP or foreign postal code
15 Name of person to contact		16 Contact telephone number
17 Reserved		
18 Total number of Forms 1095-C submitted with this transmittal		
19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions		
Part II ALE Member Information		
20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member		
21 Is ALE Member a member of an Aggregated ALE Group?		
If "No," do not complete Part IV.		
22 Certifications of Eligibility (select all that apply):		
<input type="checkbox"/> A. Qualifying Offer Method	<input type="checkbox"/> B. Reserved	<input type="checkbox"/> C. Reserved
<input type="checkbox"/> D. 98% Offer Method		
<small>Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.</small>		
Signature	Title	Date
<small>For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.</small>		
<small>Cat. No. 61571A</small>		<small>Form 1094-C (2024)</small>

1094-C

Transmittal

Form

- Page 2

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Form 1094-C (2024)

Page 2

Part III

ALE Member Information—Monthly

	(a) Minimum Essential Coverage Offer Indicator		(b) Section 4980H Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Reserved
	Yes	No				
23 All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24 Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25 Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26 Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27 Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28 May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29 June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30 July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31 Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32 Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33 Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34 Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35 Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

Form 1094-C (2024)



1094-C Transmittal Form

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Form 1094-C (2024) Page **3**

Part IV Other ALE Members of Aggregated ALE Group

Enter the names and EINs of Other ALE Members of the Aggregated ALE Group (who were members at any time during the calendar year).

Name	EIN	Name	EIN
36		51	
37		52	
38		53	
39		54	
40		55	
41		56	
42		57	
43		58	
44		59	
45		60	
46		61	
47		62	
48		63	
49		64	
50		65	

Form **1094-C** (2024)

Multiple Entities

Full Details: [ACA Reporting for Controlled Groups](#)

Separate Forms 1094-C for Each ALEM

- Where an ALE has multiple corporate entities in the controlled group, there is an “Aggregated ALE Group”
- Each “Applicable Large Employer Member” (ALEM) in that group (generally each subsidiary or related entity in the controlled group that maintains a separate EIN) must file a separate Form 1094-C
- Required because each ALEM is separately subject to the “A Penalty” analysis

Required Entries for Each ALEM on the Form 1094-C

- **Part II, Line 21:** Answer “Yes” to question “Is ALE Member a member of an Aggregated ALE Group?”
- **Part III, Column D:** For each month in which the controlled group existed, the “Aggregated Group Indicator” box will be checked
- **Part IV:** This section will be completed listing the names of the other related entities in the controlled group (the other ALEMs) and their EINs

Forms 1095-C Tied to Each ALEM

- Employees of each ALEM must receive a Form 1095-C with that ALEM’s name/EIN (cannot simply use the parent EIN for all Forms 1095-C)
- If an employee works for more than one ALEM in any month, the ALEM for whom the employee worked the most hours of service will report as the employer



02

Form 1095-C



Form 1095-C: Offer Details and Coverage

- This form is completed for **every** full-time employee
- Self-insured plans also need to report all individuals covered (self-insured non-ALEs use Form 1095-B)
- Two main topics being reported:
 1. **§6055: Individuals covered by MEC for individual mandate compliance**
 - Self-insured plans only – Employers with fully insured plans leave Part III blank.
 - For insured plans, the insurance carrier uses the Form 1095-B to report MEC.
 - Requires Social Security Number (or reasonable efforts to obtain) for all covered individuals
 2. **§6056: Employer mandate compliance for §4980H penalties**
 - All ALEs must report on this – both self-insured and fully insured
 - Requires detail as to plan's offer of coverage to all full-time employees

Form 1095-C: Employer Offer Details and Coverage

Information Reported

Employee name, address, and Social Security Number

Employer name, address, contact phone number, EIN

Offer of coverage details for each month of coverage:

- Was the employee offered coverage for each month?
- Was the offer affordable and did it provide minimum value?
- Did the offer include an offer of coverage for dependents?
- Monthly employee-share of the premium for the lowest cost plan option at employee-only tier that provides minimum value and was offered to the employee

If an affordability or other §4980H safe harbor applies:

- Form W-2 affordability safe harbor
- Federal poverty line affordability safe harbor
- Rate of pay affordability safe harbor
- Limited non-assessment period

Self-Insured: Part III includes name, SSN, and months of coverage for each covered individual (employee and dependents)



Form 1095-C: Employer Offer Details and Coverage

Part III Coverage Information – Self-insured Plans

Self-insured plans must include MEC coverage information in Part III of the Form 1095-C:

- Names of all covered individuals
- SSNs of all covered individuals
 - Must make “reasonable efforts” to obtain the SSN for all covered individuals
 - Requires **three attempts** to solicit the SSN:
 - 1. Account Opened Solicitation:** Initial solicitation upon the employee’s election to enroll the dependent
 - 2. First Annual Solicitation:** If not received, second solicitation within 75 days of the employee’s election to enroll the dependent
 - 3. Second Annual Solicitation:** If not received, third solicitation by December 31 of the year following the year the employee elected to enroll the dependent
- Enter date of birth for any covered individuals who don’t provide the SSN
- Months of coverage (not just offered coverage, but actually enrolled) for all covered individuals in the plan

Form 1095-C: Employer Offer Details and Coverage

Part III Coverage Information – COBRA Reporting

Self-insured plans must report the coverage information in Part III for everyone enrolled—including COBRA

- The Form 1095-C coding for terminated employees is one of the trickier areas of ACA reporting
- **Terminated Employee Enrolled in COBRA: *Months After Termination of Employment in Year of Termination***
 - Line 14: 1H (not offered coverage)
 - Line 15: Blank
 - Line 16: 2A (not employed)
 - Part III: Enter coverage information for employee and dependents for all months of active/COBRA coverage
- **Terminated Employee Enrolled in COBRA: *Active Coverage Ended Previous Year***
 - Line 14: 1G (not an employee for all 12 months)
 - Line 15: Blank
 - Line 16: Blank
 - Part III: Enter coverage information for employee and dependents for all months of COBRA coverage
 - Note: Employer may choose to report for the former employee on a separate Form 1095-B instead

Form 1095-C

- Parts I & II

600120

Form **1095-C**
Department of the Treasury
Internal Revenue Service

Employer-Provided Health Insurance Offer and Coverage
Do not attach to your tax return. Keep for your records.
Go to www.irs.gov/Form1095C for instructions and the latest information.

☐ VOID
☐ CORRECTED

OMB No. 1545-2251
2024

Part I Employee			Applicable Large Employer Member (Employer)													
1 Name of employee (first name, middle initial, last name)			2 Social security number (SSN)			7 Name of employer					8 Employer identification number (EIN)					
3 Street address (including apartment no.)						9 Street address (including room or suite no.)					10 Contact telephone number					
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code						
Part II Employee Offer of Coverage				Employee's Age on January 1						Plan Start Month (enter 2-digit number):						
				All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)																
15 Employee Required Contribution (see instructions)				\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)																
17 ZIP Code																

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 60705M

Form **1095-C** (2024)

Form 1095-C

- Part III

Form 1095-C (2024)

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Part III

Covered Individuals

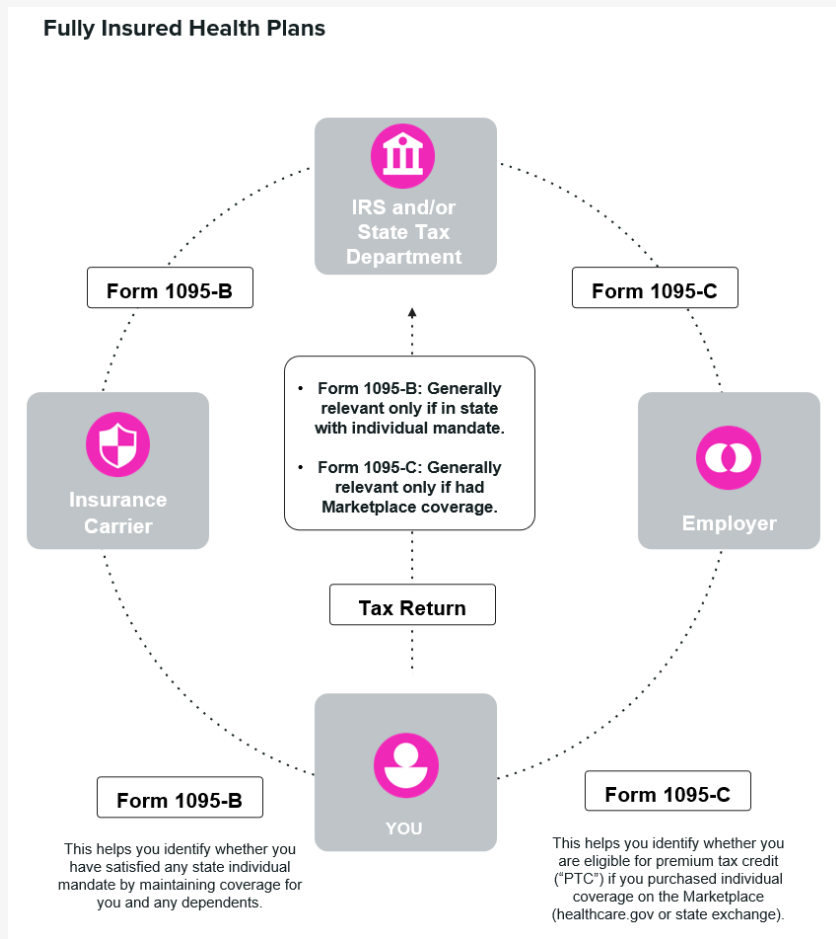
If Employer provided self-insured coverage, check the box and enter the information for each individual enrolled in coverage, including the employee. ☐

(a) Name of covered individual(s) First name, middle initial, last name				(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of coverage											
							Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
18						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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25						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Form 1095-C (2024)



Fully Insured Plan

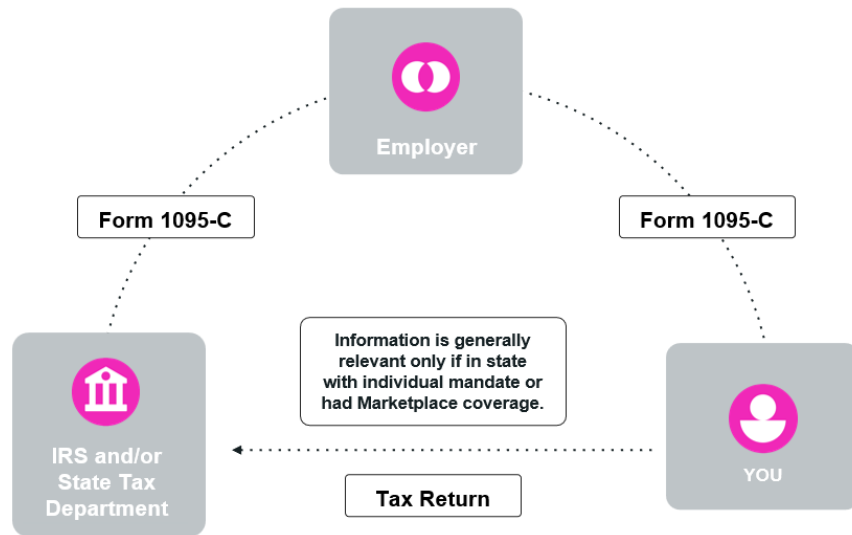


Self-Insured Plan

(Note: Includes Level-Funded Plans)



Self Insured Health Plans (Includes Level Funded)

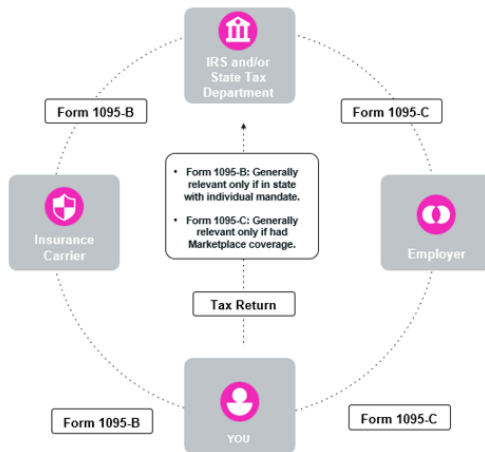


1095-C helps you identify whether:

- You are eligible for premium tax credit ("PTC") if you purchased individual coverage on the Marketplace (healthcare.gov or state exchange).
- You have satisfied any state individual mandate by maintaining coverage for you and any dependents.

Both Fully Insured & Self-Insured Plans

(Note: Self-Insured Includes Level-Funded Plans)



Fully Insured Health Plans

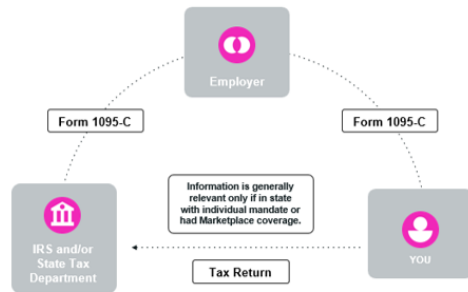
1095-B helps you identify whether you have satisfied any state individual mandate by maintaining coverage for you and any dependents.

1095-C helps you identify whether you are eligible for premium tax credit ("PTC") if you purchased individual coverage on the Marketplace (healthcare.gov or state exchange).

Self Insured Health Plans

1095-C helps you identify whether:

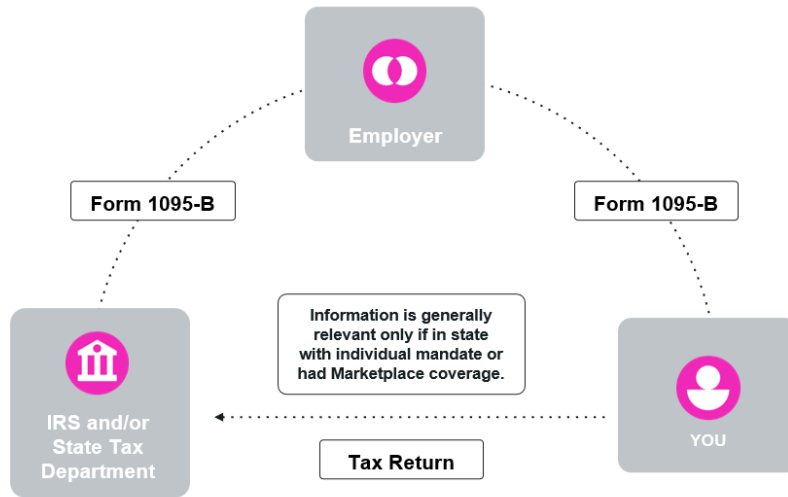
- You are eligible for premium tax credit ("PTC") if you purchased individual coverage on the Marketplace (healthcare.gov or state exchange).
- You have satisfied any state individual mandate by maintaining coverage for you and any dependents.



Self-Insured Non-ALE Plan

(Note: Includes Level-Funded Plans)

Self Insured Health Plans for Non-ALEs (Includes Level Funded)
- Generally Under 50 Lives



1095-B helps you identify whether:

- You are eligible for premium tax credit ("PTC") if you purchased individual coverage on the Marketplace (healthcare.gov or state exchange).
- You have satisfied any state individual mandate by maintaining coverage for you and any dependents.

Streamlined ACA Reporting Methods

Qualifying Offer Method	98% Offer Method
<p>An offer providing MEC to one or more full-time employees for all calendar months during the year for which the employee was full-time, provided:</p> <ul style="list-style-type: none">• The offer meets the federal poverty line safe harbor for mainland U.S.; and• The offer included an offer of MEC to the employee's spouse and dependents (if any)	<p>For all months during which individuals were employees and not in a limited non-assessment period, the employer offered:</p> <ul style="list-style-type: none">• Affordable/MV coverage to at least 98% of its employees for whom it files a Form 1095-C; and• MEC to those employees' dependents (children to age 26)
Streamlined Effect	Streamlined Effect
<p>Forms 1095-C, Part II:</p> <ul style="list-style-type: none">• Line 14: Use Code 1A for each month in which the employee received a Qualifying Offer• Line 15: Must Leave Blank• Line 16: May Leave Blank (IRS guidance in instructions) <p>Substitute Form:</p> <ul style="list-style-type: none">• Permitted where employee received 12-month qualifying offer and not enrolled in self-insured coverage• Substitute form generally not recommended because the employer must still provide Form 1095-C to the IRS	<p>Form 1094-C, Part III:</p> <ul style="list-style-type: none">• The employer is not required to complete the full-time employee count section (Column (b))• Column (b) reports the number of full-time employees for each month in the calendar year• Still required to complete a Form 1095-C for each full-time employee• Is it worth it? Little benefit and certifying to 98% may backfire if employees inadvertently missed

10

Deadlines and Penalties



ACA Reporting Deadlines

Extension Stays, No More Good Faith Safe Harbor

Full Details: [The ACA Reporting Requirements in 2026](#)

Extended Deadline Is Here to Stay

- The IRS finalized regulations to make the 30-day extension permanent*
- 30-day extension applies only to the deadline for providing the forms to individuals*
- Deadlines to file with the IRS remain standard
- In prior years the IRS also provided the good faith enforcement safe harbor to avoid penalties for incorrect or incomplete information (generally \$340 per return)
- In prior years, IRS allowed employers filing fewer than 250 returns to file by paper
- **Remember:** No good-faith safe harbor available anymore—standard penalty scheme applies for incorrect information
- **Remember:** No option to file by paper anymore—going forward all employers must file electronically

****New Furnishing Relief Available!***

2026 ACA Reporting Deadlines for ALEs

Forms	Type of Distribution	Due Date
2025 Forms 1095-C	<i>Furnish to Individuals*</i>	March 2, 2026
2025 Forms 1094-C (+Copies of Forms 1095-C)	<i>Electronically File with IRS</i>	March 31, 2026



Due Dates: 30-Day Extension to Furnish, No Longer Option to File by Paper

Full Details: [The ACA Reporting Requirements in 2026](#)

Form 1095-C: To Employees

****New Furnishing Relief Available!***

- Must be furnished by **March 2, 2026**
- Standard deadline is January 31, but the new IRS final regulations make the 30-day extension from previous years permanently available going forward (great news!)
- Unfortunate downside is they have also confirmed that the good faith enforcement safe harbor for incorrect/incomplete forms is no longer available
- Note: The 30-day extension makes the deadline March 2 for a non-leap year, March 1 on a leap year

Forms 1094-C and 1095-C to the IRS: Electronic Only

- Must be filed electronically by **March 31, 2026**
- Employers must file electronically if filing 10 or more returns (including ACA reporting, Form W-2, and 1099, etc.) starting in 2024—includes virtually all employers
- Previous ability to file by paper where under 250 ACA form return threshold is now eliminated
- More details: [IRS Requires Electronic ACA Filing in 2024](#)
- Note: The filing deadline is extended on years when it falls on a weekend

New ACA Reporting and ER Mandate Relief

Full Details: [The ACA Reporting Requirements in 2026](#)

Form 1095-C Furnishing Relief:

Paperwork Burden Reduction Act Passed End of 2024

ALEs No Longer Have to Furnish Forms 1095-C

- Instead, ALEs simply have to make the forms available upon request

Two requirements for employers to take advantage of this “alternative manner of furnishing statements”:

1. *Notice of Availability:* Provide employees with clear, conspicuous, and accessible notice that they may request a copy of the Form 1095-C; and
 2. *Provision Upon Request:* If the employee requests a copy, the employer must provide a copy by the later of a) January 31, or b) 30 days after the date of the request
- See next slide for details such as how to provide the notice of availability

Employer Mandate Penalty Relief:

Employer Reporting Improvement Act Passed End of 2024

Additional Time to Respond to IRS Letter 226J

- New law provides employers with 90 days to respond to proposed ACA employer mandate penalty assessment in IRS Letter 226J
- Extends the period from the standard 30-day window that the IRS made available previously
- Employers can use additional time to respond to proposed assessment with information and documentation showing that the assessment should be reduced or eliminated (e.g., because of an ACA reporting error)

Statute of Limitations for Employer Mandate Penalties

- New law provides a six-year statute of limitations for any ACA employer mandate penalty assessment
- Previously the IRS took the position that there was no statute of limitations that applied in this context

The New PBRA Alternative Manner of Furnishing Forms 1095-C

Full Details: [The ACA Reporting Requirements in 2026](#)

Clear Notice: Website Posting by Due Date

- Employer must provide a clear and conspicuous notice
- Must be in a location on its website that is reasonably accessible to all employees
- State that employees may receive a copy of the Form 1095-C upon request
- Notice must post to the website by the due date for furnishing the Form 1095-C, which is 30 days after January 31
- Deadline to post this notice is March 2, 2026 for 2025 Forms 1095-C

Website Notice Details: Template Language

- Must be written in plain, non-technical terms
- Using font size large enough and any visual clues or graphical features to call viewer's attention

Example:

- Statement on website reading "Tax Information"
- Links to secondary page that includes a statement in capital letters "IMPORTANT HEALTH COVERAGE TAX DOCUMENTS"
- Explains how to request copy of the Form 1095-C

Responding to Requests: Applicable Timeframes

- Notice must remain available on the website through October 15
- For 2025 Forms 1095-C, notice on website must remain posted until October 15, 2026
- If employee requests the Form 1095-C, employer must provide it by the later of:
 1. January 31; or
 2. 30 days after the date of the request
- Employer may provide requested Form 1095-C by paper (hand delivery/mail) or electronically with affirmative consent (next slide)

Furnishing the Form 1095-C to Employees: Electronic Delivery Barriers

Full Details: [Furnishing Forms 1095-C to Employees Electronically](#)

Option 1: Standard Paper Mailing (or Hand Delivery)	Option 2: Electronic Delivery
<p data-bbox="413 407 880 437"><i>*New Furnishing Relief Available!</i></p> <ul data-bbox="98 459 861 874" style="list-style-type: none"><li data-bbox="98 459 861 521">• The general rule is that the Form 1095-C must be furnished on paper by mail (or hand delivered)*<li data-bbox="98 554 861 616">• The form must be properly addressed and mailed on or before the due date<li data-bbox="98 649 861 743">• May truncate SSNs by replacing the first five digits with asterisks or Xs (but truncation not allowed on forms filed with IRS)<li data-bbox="98 776 861 874">• If mailed, must be sent to the employee's last known permanent address (or if no permanent address is known, to the employee's temporary address)	<ul data-bbox="923 459 1783 934" style="list-style-type: none"><li data-bbox="923 459 1783 521">• Employers must obtain affirmative consent to furnish the Form 1095-C electronically<li data-bbox="923 554 1783 616">• The consent must relate specifically to receiving the Form 1095-C electronically<li data-bbox="923 649 1783 711">• Individuals may consent on paper or electronically—if consent is on paper, the individual must confirm consent electronically<li data-bbox="923 744 1783 838">• Electronic distribution after proper consent is permitted by email or by informing the individual how to access the statement on a website<li data-bbox="923 871 1783 934">• Note: This is different than the standard ERISA electronic disclosure rules—requires specific Form 1095-C authorization!

ACA Reporting Penalties

Full Details: [The ACA Reporting Requirements in 2026](#)

Same Penalties Apply as for Forms W-2 (Penalty Amounts for Forms Furnished/Filed in 2026)

General penalty is **\$680** for each incorrect return (**\$340** for return furnished to individual, **\$340** for return filed with the IRS).

- Total fine not to exceed \$4,098,500.
- Penalty reduced to **\$60** if the corrected return is filed **within 30 days** after the required filing date—total fine max reduced to \$683,000.
- Penalty reduced to **\$130** if corrected by **August 1** of the year in which the filing due—total fine max reduced to \$2,049,000.

Special Good Faith Efforts Applied in Previous Years—No Longer Available

For the Forms 1094-C and 1095-C filed in previous years, a “good faith efforts” standard applied.

- The IRS would not impose the penalties described above if the employer could show that it made “good faith effort” to comply with the information reporting requirements.
- Applied to incorrect or incomplete information (including SSNs).
- IRS has confirmed the end of good faith transition relief confirmed in new final regulations
- Reasonable cause penalty relief is still available in some circumstances
- More details: [ACA Reporting Penalties](#)

ACA Reporting Penalties: Filing Failures

Full Details: [ACA Reporting Penalties](#)

No Filing: [IRS Letter 5699](#)

- Employers that fail to file their ACA reporting forms will receive an IRS Letter 5699
- Letter asks the employer several questions related to why the forms have not been filed
- Questions are generally inquiring as to whether the employer was an ALE and what the status is of their filing
- Employer has 30 days to respond
- Failure to respond will result in IRS Letter 5698 and eventually referral to IRS examiner to pursue penalties for failure to file/furnish

Late/Incorrect Filing: [IRS Notice 972CG](#)

- Employers that do not timely file the ACA reporting forms will receive an IRS Notice 972CG informing them of the proposed penalties being imposed
- Employers have 45 days to respond to the Notice 972CG
- If employer agrees, they can simply respond with the payment
- Those disagreeing will state the reason the penalties (in full or in part) should not apply
- Employers that do not timely respond will receive a follow-up “Notice of Penalty Charge” bill that includes additional interest

Reasonable Cause Relief: [IRS Publication 1586](#)

- “Reasonable cause” relief is available to potentially reduce or eliminate ACA reporting penalties
- Employer must show:
 1. No willful neglect;
 2. That it acted in a responsible manner both before and after the failure occurred; and
 3. There were significant mitigating factors or events beyond its control
- Full description of the standard in Treas. Reg. §301.6724-1
- Summary of the standard in IRS Publication 1586

The Individual Mandate is Dead, Long Live the (State) Individual Mandate

Multiple States Have Imposed State-Based Individual Mandates

- The ACA originally modelled its federal individual mandate (which took effect in 2014) on the state individual mandate first imposed in Massachusetts during the Governor Romney administration in 2006
- Since the removal of the ACA federal individual mandate tax penalty, a number of states have considered a state-based approach to protect the individual market risk profile
- These new state individual mandates typically mirror the tax penalty scheme previously applied under the ACA
- For example, California's tax penalty is generally the greater of 2.5% of gross income over the filing threshold or \$900/adult and \$450/child
- States with individual mandates now include Massachusetts, California, New Jersey, Rhode Island, Vermont, and Washington D.C.

What About State Individual Mandate Reporting?

- States are mostly relying on the Forms 1095-B (carrier reporting for fully insured) and 1095-C (self-insured) to gather coverage information for residents
- Generally the carrier's obligation to provide the Form 1095-B to the state where the plan is fully insured
- Generally the employer's obligation to provide the Form 1095-C to the state where the plan is self-insured
- Note that some states have not provided the same 30-day extension available from IRS for furnishing Form 1095-C
- What happens if §6055 reporting is eliminated? States would devise their own forms, likely modelled after the Form 1099-HC in Massachusetts

State Individual Mandate Highlights

State	Law	Effective date	Employer reporting requirements	Employee penalties
California	Individual Mandate Health Care Mandate Website Reporting Health Insurance Information	January 1, 2020	All self-insured employers regardless of size must submit forms 1094-C and 1095-C if ALE, and 1094-B and 1095-B in non-ALE to Franchise tax Board by March 31 but will not be penalized if filed on or before May 31; Health insurers are required to submit form 1095-B for all fully insured plans. Self-insured employers must provide 1095-C forms to employees by January 31. No penalty is imposed for failure to provide forms to individual by the deadline. Employers providing these statements to employees under the ACA on or before the CA deadline, do not have to provide a second statement. For fully insured employers, the insurer is responsible for providing the 1095-B to employees by January 31. The penalty for not reporting is \$50 per individual who was provided health coverage.	A taxpayer who does not have an exemption and does not have coverage will be subject to a penalty the higher of \$900 per adult, and \$450 for each dependent child under 18, or up to 2.5% of household income.
New Jersey	NJ Health Mandate NJ Shared Responsibility Requirement	January 1, 2019	Reporting due March 31; self-insured employers required to file the 1094-C transmittal form and 1095-C (or 1094-B/1095-B as applicable). Fully insured employers should check with carrier to ensure carrier is filing. 1095-C forms should be provided to employees by March 1. No penalties for late filing	A taxpayer who does not have an exemption and does not have coverage will have a shared responsibility payment based on filing status and household income, capped at the statewide average annual premium for bronze health plans. The minimum penalty for an individual taxpayer is \$695 and the maximum is \$4,284.
Massachusetts	Health Care Reform for Individuals	January 1, 2007	Insurance carriers and certain employers legally required to issue form MA 1099-HC no later than January 31 of the following year. Verify with the carrier if they are issuing the form. Employers with 6 or more employees must also annually between 11/15-12/15 file a Health Insurance Responsibility Disclosure (HIRD). Failure to issue form MA 1099-HC could subject employer to penalties of \$50 per individual up to a maximum of \$50,000	Penalties apply only to residents age 18 and older who are deemed able to afford health insurance but did not enroll and vary depending on income, age, and family size. The penalty cannot exceed one-half of the least expensive monthly premium available through the Massachusetts Health Connector (Connector).



State Individual Mandate Highlights

State	Law	Effective date	Employer reporting requirements	Employee penalties
Rhode Island	Health Coverage Mandate Reporting Requirements FAQ	January 1, 2020	Employers submit their ACA reporting forms or a state specific return to Rhode Island Division of Taxation. Employers must provide forms to employees March 1. Deadline for employer reporting to the state is March 31. Penalties reviewed and assessed on a case by case basis. For late furnishment and late filing.	Taxpayer who does not have an exemption and does not have coverage will have a shared responsibility payment (greater of \$695/person; \$347.50 for each child, or 2.5% of your household income) capped at the Rhode Island statewide average premium for bronze-level plans offered through the Rhode Island health benefits Exchange.
Vermont	Health Coverage Mandate	January 1, 2020	Currently no employer reporting or distribution requirements.	Enforcement mechanism to be determined. Currently no financial penalty for failing to maintain coverage under the Vermont law. Individuals are required to indicate on their state income tax return whether they had MEC for each month of the year.
Washington DC	Individual Taxpayer Health Insurance Responsibility Requirement Washington DC FAQ	January 1, 2019	Employers must electronically submit their ACA reporting forms through www.MyTax.DC.gov to Washington DC by April 30; 1095 Forms to employees by March 1. No penalties for late filing or failure to furnish forms.	A taxpayer who does not have an exemption and does not have coverage will have a shared responsibility payment (greater of \$795/person; \$397.50 for each child, up to a maximum of \$2,385, or 2.5% of your household income over the federal tax whiling threshold) capped at the average premiums for bronze level health plans available on DC Health Link.

Wrap-up

Takeaways



The ACA Employer Mandate & ACA Reporting

Three Key Points to Remember

1

There are two ACA Employer Mandate Penalties: The A Penalty and the B Penalty. Employers need to ensure they are never in a position where the A Penalty could apply. This penalty is potentially enormous, and employers should never have to “play” and “pay”. Keep track of full-time employees (including contingent workforce) to ensure the 95% threshold is never jeopardized. The B Penalty is much smaller and therefore not a significant concern if it applies to only a few employees.

2

The ACA full-time employee determination is perhaps the most complex area of the Employer Mandate. Although many ACA reporting vendors dismiss it out of hand, the monthly measurement method is a great way to avoid most of this complexity for all or nearly all full-time workforces. Otherwise, the look-back measurement method is generally the better approach to ensure predictability of employees’ full-time status for the stability period (typically aligned with plan year).

3

The ACA reporting exhibition season is over, and now the real games begin. The end of the IRS’s good faith safe harbor and loss of ability to file by paper (both available in prior years) puts a renewed emphasis on ensuring correct (and timely) completion of the Forms 1094-C and 1095-C. Employers are strongly advised to work with an ACA reporting vendor (payroll, ben admin, stand-alone) to properly address ACA hours tracking (measurement, administrative, stability periods for LBMM) and ACA reporting (including the electronic filing requirements).

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The ACA Employer Mandate & ACA Reporting

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Thank you



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