



# Employer Mandate



## The Affordable Care Act's Employer Mandate

The Patient Protection and Affordable Care Act (the "ACA") implementation, which took effect in 2010, was the most significant set of tax law reforms in more than 20 years and had an impact on millions of taxpayers.

The Employer Mandate under the Affordable Care Act becomes mandatory on January 1, 2015. The Congressional Budget Office predicted in 2016 that penalties for businesses that refused to provide coverage to their full-time workers or provided coverage that was insufficient would total \$228 billion.

Employers who did not supply the 2015 tax reporting information (as required by the ACA) were sent Letter 226J tax penalty notices, which marked the start of the IRS's enforcement of the Employer Mandate. Since then, enforcement has been extended to include the tax years 2016, 2017, 2018, 2019, and 2020, with other tax years to follow. The IRS may continue to impose penalties for any prior year because there is no statute of limitations on ACA penalties.

It is crucial for employers to comprehend and carefully navigate the complex regulatory landscape of the ACA while making sure that their offers of coverage satisfy ACA requirements without unduly increasing healthcare costs. Most employers with more than 50 employees provide some form of health coverage. Understanding the risks and expenses of the ACA is necessary for implementing best practices. To that aim, we've created this summary of ACA rules, including tax fines, reporting requirements, and disclosure requirements.



## Who is impacted by the Affordable Care Act's Employer Mandate?

Applicable Large Employers (ALEs) are required by the ACA to comply with the Employer Mandate requirements. ALEs are businesses that employ at least 50 employees full-time or at a full-time equivalent. These businesses typically had at least 50 full-time or full-time equivalent employees on business days during the preceding year. To determine how many full-time employees are employed at any given moment and whether they are regarded an ALE in any calendar year, an organization must calculate the total number of full-time hours worked by all of its employees. In particular, businesses must consider the previous tax year when deciding whether organizations qualify as ALEs for the current year. Exceptions might be made if the workforce (a) consists of more than 50 full-time or full-time equivalent employees for 120 or fewer days per calendar year and (b) consists of "seasonal workers."

When calculating if an organization is an ALE, both full-time and full-time equivalent (FTE) workers are included. An employee who regularly puts in at least 30 hours per week is considered full-time. Employees who work less than 30 hours per week are converted to FTEs by adding up their monthly service hours, then dividing that sum by 120. When the sum of an employer's full-time and full-time equivalent workforce is more than 50, the employer is considered an applicable large employer.

The number of full-time and part-time employees in the previous year is used to calculate an employer's ALE status for the current calendar year. In 2023, for instance, an organization's ALE status is calculated using data from 2022 regarding the number of employees.

Employees of companies that are run by the same person or group, belong to the same group of controlled corporations, or are part of the same linked service group will be seen as working for the same employer. This means that if two or more related businesses together have 50 full-time employees (FTEs) or FTE equivalents, they will be treated as one Applicable Large Employer (ALE), with each business being a member of that ALE.

## Full-time employee status criteria

The IRS has provided employers some guidance when it comes to determining an employee's full-time status. In general, if an employee averages working 30 or more hours per week, they should be considered a full-time employee. The Monthly Measurement Method and the Look-Back Measurement Method are two options for determining an employee's status.

- The **Monthly Measurement Method** is applicable to salaried employee workforces. With its measurement and stability periods technique, the Look-Back Measurement Method may be better suited for the complexities of variable-hour employee workforces.
- The **Look-Back Measurement Method** requires the employer to look back at a defined period of not less than three, but not more than twelve, consecutive calendar months (the measurement period) to determine whether the employee averaged at least 30 hours of service per week or at least 130 hours of service per calendar month during the measurement period to determine each employee's full-time status.

### **\*\*ALL EMPLOYEES MUST BE ANALYZED TO DETERMINE AN EMPLOYER'S ALE STATUS\*\***

Employees who were classified as full-time during the measurement period would also be treated as such during a subsequent "stability period" — a period of at least six consecutive calendar months immediately following the measurement period and no less than the measurement period.

If the employee was not determined to be full-time during the measurement period, the employer may classify the person as not full-time during the next stability period.

It should be noted that the stability period cannot exceed the measurement period. For example, if the employer picked an eight-month measuring period to determine full-time employment, the stability period would immediately follow and would also be eight months long.

### What kind of coverage is required?

Employers must provide "Minimum Essential Coverage (MEC)" that has a "Minimum Value (MV)" and is "affordable."

To avoid penalties, the Employer Mandate requires an ALE to provide "MEC" to all full-time employees and their dependents, and that such coverage meets the employee's "MV" and "affordability" for each month.

MEC is defined specifically to include Government Sponsored Programs, Eligible Employer-Sponsored Programs, Individual Market Plans, and Grandfathered Health Plans that were in force on the date of the ACA's adoption. Failure to satisfy MEC subjects the ALE to penalties.

To avoid consequences, the ALE offering MEC must also meet MV requirements. MV signifies that the "plan's share of the total allowed costs of benefits provided under the plan" is at least "60% of such costs." Employers who provide MEC must also verify that the employee's portion of the premium is "affordable."



## What is the ACA affordability mandate?

The ACA affordability mandate requires that Applicable Large Employers (ALEs)—those with 50 or more full-time employees—offer health insurance that meets specific criteria to their full-time employees and their dependents. Here are the key points:

- **Minimum Essential Coverage:** Employers must provide coverage that qualifies as "minimum essential coverage" (MEC) and meets a "minimum value" standard, meaning the plan pays at least 60% of covered health care costs.
- **Affordability Threshold:** The coverage offered must be deemed affordable. For 2025, this means that the employee's contribution for the lowest-cost, self-only health plan cannot exceed 9.02% of their household income. This percentage is adjusted annually for inflation.
- **Safe Harbors:** Since employers typically do not know their employees' household incomes, the IRS provides three safe harbors to determine affordability:
  - a. W-2 Safe Harbor:** Contribution must not exceed 9.02% of the employee's W-2 wages.
  - b. Rate of Pay Safe Harbor:** Contribution must not exceed 9.02% of the employee's monthly salary or hourly wage multiplied by 130 hours.
  - c. Federal Poverty Line Safe Harbor:** The contribution must not exceed 9.02% of the federal poverty line for a single individual.
- **Penalties for Non-Compliance:** If an employer fails to offer affordable coverage and an employee obtains subsidized coverage through the Marketplace, the employer may face penalties, which are also adjusted annually.

Overall, the ACA affordability mandate aims to ensure that employees have access to affordable health insurance options while holding employers accountable for providing such coverage.

## What are the penalties for employers who do not provide minimum essential coverage?

In 2025, employers who do not provide minimum essential coverage (MEC) face significant penalties under the Affordable Care Act (ACA). Here's a summary of the penalties for non-compliance:

### 1. Section 4980H(a) Penalty:

When it applies: This penalty is imposed if an Applicable Large Employer (ALE) fails to offer MEC to at least 95% of its full-time employees and their dependents, and at least one employee receives a premium tax credit for purchasing coverage through the Marketplace.

Penalty Amount: The penalty is \$2,900 per full-time employee per year, calculated monthly as approximately \$241.67. This amount applies to all full-time employees, minus the first 30 employees.

Example Calculation:

If an employer has 300 full-time employees and fails to offer MEC:

Total penalty =  $(\$2,900 \times (300 - 30)) = \$801,900$  annually.

### 2. Section 4980H(b) Penalty:

When it applies: This penalty applies if an ALE offers coverage but it is either unaffordable or does not meet minimum value standards, and at least one employee receives a premium tax credit.

Penalty Amount: The penalty is \$4,350 per employee receiving a subsidy, calculated monthly as approximately \$362.50.

Example Calculation:

If an employer has 10 full-time employees who receive subsidies for six months:

Total penalty =  $(\$362.50 \times 6 \text{ months}) \times 10 = \$21,750$ .

## Summary of penalties for employers who do not provide minimum essential coverage?

Employers cannot be penalized under both Section 4980H(a) and Section 4980H(b) for the same tax year; they will be liable for the higher penalty.

These penalties are designed to ensure that employers provide adequate health insurance coverage to their employees and are enforced through IRS assessments based on employee claims for subsidies.

Employers must take these penalties seriously and ensure compliance with ACA requirements to avoid substantial financial consequences.





## What Reporting Requirements Apply to the IRS?

In 2025, the reporting requirements for employers under the Affordable Care Act (ACA) to the IRS include several key forms and deadlines:

### Reporting Requirements

#### 1. Forms to File:

- a. Form 1094-C:** This is the transmittal form that summarizes information about the health coverage offered by the employer.
- b. Form 1095-C:** This form provides detailed information about the health coverage offered to each full-time employee.

#### 2. Deadlines:

- a. Form 1095-C:** Employers must furnish this form to employees by March 3, 2025.
- b. Form 1094-C:** The deadline to electronically file this form with the IRS is March 31, 2025.

#### 3. Electronic Filing Requirement:

Employers are required to file these forms electronically. Paper filing options have been eliminated for Applicable Large Employers (ALEs) to enhance accuracy and streamline the reporting process.



## Penalties for Non-Compliance with Reporting Requirements

Employers who fail to file correct information returns or fail to file altogether may face significant penalties under Sections 6055 and 6056 of the ACA.

### General Penalties:

For late filings:

1. \$60 per return if filed within 30 days, with a maximum penalty of up to \$232,500 for small businesses.
2. \$120 per return if filed after 30 days but before August 1st, with a maximum penalty of up to \$664,500 for small businesses.
3. \$310 per return if filed after August 1st, with a maximum penalty of up to \$1,329,000 for small businesses.

If there is intentional disregard for filing requirements, higher penalties apply.

Employers must ensure compliance with these reporting requirements to avoid substantial penalties. The ACA mandates that ALEs provide accurate information regarding health coverage offered to employees, which is essential for verifying compliance with the employer mandate and ensuring employees receive their entitled benefits.



**Applicable Large Employers (ALEs) must adhere to specific reporting requirements under the Affordable Care Act (ACA).** Here's a summary of what businesses need to know regarding the reporting of coverage:

## Key Reporting Requirements

### 1. Forms to File:

**Form 1094-C:** This is the transmittal form that summarizes information about the health coverage offered by the employer.

**a. Form 1095-C:** This form provides detailed information about the health coverage offered to each full-time employee.

**b. Form 1095-C:** This form provides detailed information about the health coverage offered to each full-time employee.

### 2. Deadlines:

**a. Form 1095-C:** Employers must furnish this form to employees by March 3, 2025.

**b. Form 1094-C:** The deadline to electronically file this form with the IRS is March 31, 2025. If filing on paper, the deadline is February 28, 2025.



### 3. Electronic Filing Requirement:

Employers with 10 or more forms must file electronically. This requirement strives to streamline the reporting process and enhance accuracy.

### 4. Information Provided:

- a. **Form 1095-C** details the health coverage provided throughout the year.
- b. **Form 1094-C** serves as a summary of the information reported on all Form 1095-Cs submitted by the employer.

### Penalties for Non-Compliance

Employers who fail to file correct information returns or fail to file altogether may face significant penalties under Sections 6055 and 6056 of the ACA.

#### General Penalties:

- Up to \$60 per return if filed within 30 days.
- Up to \$120 per return if filed after 30 days but before August 1st.
- Up to \$310 per return if filed after August 1st.

### Importance of Compliance

Compliance with these reporting requirements is crucial for avoiding penalties and ensuring that employees receive accurate information regarding their health coverage. Employers should prepare well in advance to meet these deadlines and maintain proper records.



**Insperity<sup>®</sup>**

*HR that Makes a Difference<sup>®</sup>*