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COMBINED

Navigating ACA Reporting Requirements

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recording



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Today's Agenda

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What is ACA?

2

What if I own multiple businesses?

3

What are the 2022 ACA Deadlines?

4

What types of IRS audits are being issued?

What is ACA?

Patient Protection and Affordable Care Act

- Make affordable health insurance available to more people
- Employers with 50 or more full time equivalent employees must provide health benefits to at least 95% of benefit eligible employees
- Report to the IRS annually
- Benefits must contain minimum essential coverage and be of minimum value (covers at least 60% of claims)

Patient Protection and Affordable Care Act

- Employee contribution must not exceed the IRS affordability percentage for employee only coverage based on employee's income (percentage adjusts annually)
- Provide individual marketplace allowing for cost sharing and tax credits based on household income
- Notice requirements
- Penalty assessments



Passed into Law March 23, 2010

Patient Protection and Affordable Care Act

Under the shared responsibility provisions of the Patient Protection and Affordable Care Act (PPACA), **applicable large employers** must offer affordable health care coverage with minimum value to employees who have an average of 30 or more hours of service per week or 130 hours of service per month; alternatively, employers may choose to pay a penalty

➤ ALE = 50 or more full-time equivalent employees

Patient Protection and Affordable Care Act

Change in classifications

- Full Time = Benefit Eligible Employee 30 hours or more per week
- Part Time = Variable Hour Employee less than 30 hours per week

“Full-time” employee waiting period vs variable hour measurement

- No longer than 90 days; no longer than 13.5 months

What is my FTE count?

Testing ACA FTE

Having a large population of part-time/variable hour employees should be a trigger to run a full-time equivalency test annually. This testing is to create documentation in the event of an IRS 5699 Audit Letter.

Example Calculation:

- Employee 1 is a FT = 1 FTE
- Employee 2 is a VHE averaged 1560 hours in prior year = 1 FTE
- Employee 3 is a VHE averaged 780 hours in prior year = 0.5 FTE

**What if I own multiple
businesses?**

Common Ownership/Controlled Group Status

Companies with a common owner or that are otherwise related under certain rules of section 414 of the Internal Revenue Code are generally combined and treated as a single employer for determining ALE status. If the combined number of full-time employees and full-time equivalent employees for the group is large enough to meet the [definition of an ALE](#), then each employer in the group (called an ALE member) is part of an ALE and is subject to the employer shared responsibility provisions, even if separately the employer would not be an ALE. *-IRS.GOV*

➤ Percentage of ownership matters!

Common Ownership/Controlled Group Status

Three (3) types of Controlled Groups:

① Parent-Subsidiary

One or more chains of corporations are connected through stock ownership with a common parent and 80% of the stock of each (except the parent) is owned by one or more corporations in the group

- Parent corporation must own 80% of at least one other corporation

② Brother-Sister

Group of two or more corporations in which 5 or fewer common owners directly or indirectly own a controlling interest (80% or more) in each corporation and have effective control (generally 50% of the stock of each corporation with identical ownership)

③ Combination of the above

Note: the following family attribution rules only apply to a brother-sister controlled group and do not apply to a parent-subsidary controlled group.

THE OWNERSHIP INTERESTS OF:	Are attributed to:	
Spouse	Spouse	EXCEPTION: No attribution between spouses if there is no: <ul style="list-style-type: none"> • direct ownership, • participation in company, and • no more than 50% of business gross income is passive investments. See 1.414(c)-4(b)(5)(ii).
Minor child (under age 21)	Parent	
Parent	Minor child (under age 21)	
Parent	Adult child (age 21 or older)	ONLY IF: Adult child owns greater than 50% of that business.
Adult child	Parent	ONLY IF: Parent owns greater than 50% of that business.
Grandparent	Minor or Adult child	ONLY IF: Minor/Adult child owns greater than 50% of that business.
Minor or Adult child	Grandparent	ONLY IF: Grandparent owns greater than 50% of that business.
Sibling	None	None

Attribution

Attribution is the concept of treating a person as owning an interest in a business that is not actually owned by that person. Attribution may result from family or business relationships. Section 1563 attribution is used in determining a controlled group of businesses, under section 414(b) and (c). -IRS.GOV

What are 1095 forms A, B, C?

600220

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

2022

Part I Employee

Applicable Large Employer Member (Employer)

Form fields for Part I: Employee and Applicable Large Employer Member (Employer). Includes fields for name, SSN, employer name, EIN, address, and contact info.

Part II Employee Offer of Coverage

Employee's Age on January 1

Plan Start Month (enter 2-digit number):

Table for Part II: Employee Offer of Coverage. Columns include All 12 Months, Jan, Feb, Mar, Apr, May, June, July, Aug, Sept, Oct, Nov, Dec. Rows include Offer of Coverage, Employee Required Contribution, and Section 4980H Safe Harbor and Other Relief.

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

Cat. No. 60705M

Form 1095-C (2022)

- 1A. Minimum essential coverage providing minimum value offered to you with an employee required contribution for self-only coverage equal to or less than 9.5% (as adjusted) of the 48 contiguous states single federal poverty line and minimum essential coverage offered to your spouse and dependent(s) (referred to here as a Qualifying Offer). This code may be used to report for specific months for which a Qualifying Offer was made, even if you did not receive a Qualifying Offer for all 12 months of the calendar year. For information on the adjustment of the 9.5%, visit IRS.gov.
1B. Minimum essential coverage providing minimum value offered to you and minimum essential coverage NOT offered to your spouse or dependent(s).
1C. Minimum essential coverage providing minimum value offered to you and minimum essential coverage offered to your dependent(s) but NOT your spouse.
1D. Minimum essential coverage providing minimum value offered to you and minimum essential coverage offered to your spouse but NOT your dependent(s).
1E. Minimum essential coverage providing minimum value offered to you and minimum essential coverage offered to your dependent(s) and spouse.
1F. Minimum essential coverage NOT providing minimum value offered to you, or you and your spouse or dependent(s), or you, your spouse, and dependent(s).
1G. You were NOT a full-time employee for any month of the calendar year but were enrolled in self-insured employer-sponsored coverage for one or more months of the calendar year. This code will be entered in the All 12 Months box or in the separate monthly boxes for all 12 calendar months on line 14.
1H. No offer of coverage (you were NOT offered any health coverage or you were offered coverage that is NOT minimum essential coverage).
1I. Reserved for future use.
1J. Minimum essential coverage providing minimum value offered to you; minimum essential coverage conditionally offered to your spouse; and minimum essential coverage NOT offered to your dependent(s).
1K. Minimum essential coverage providing minimum value offered to you; minimum essential coverage conditionally offered to your spouse; and minimum essential coverage offered to your dependent(s).
1L. Individual coverage health reimbursement arrangement (HRA) offered to you only with affordability determined by using employee's primary residence ZIP code.
1M. Individual coverage HRA offered to you and dependent(s) (not spouse) with affordability determined by using employee's primary residence ZIP code.
1N. Individual coverage HRA offered to you, spouse, and dependent(s) with affordability determined by using employee's primary residence ZIP code.
1O. Individual coverage HRA offered to you only using the employee's primary employment site ZIP code affordability safe harbor.
1P. Individual coverage HRA offered to you and dependent(s) (not spouse) using the employee's primary employment site ZIP code affordability safe harbor.
1Q. Individual coverage HRA offered to you, spouse, and dependent(s) using the employee's primary employment site ZIP code affordability safe harbor.
1R. Individual coverage HRA that is NOT affordable offered to you; employee and spouse or dependent(s); or employee, spouse, and dependents.
1S. Individual coverage HRA offered to an individual who was not a full-time employee.
1T. Individual coverage HRA offered to employee and spouse (no dependents) with affordability determined using employee's primary residence ZIP code.
1U. Individual coverage HRA offered to employee and spouse (no dependents) using employee's primary employment site ZIP code affordability safe harbor.
1V. Reserved for future use.
1W. Reserved for future use.
1X. Reserved for future use.
1Y. Reserved for future use.
1Z. Reserved for future use.

(Continued on page 4)

What are the deadlines?

ACA Reporting Deadlines

The very first required reporting year was 2015. Below are the 2022 deadlines:

- ① 1095 forms are due to employees by March 2, 2023
 - ➔ Originally January 31st but proposed rule issued in late 2021 permanently extending deadline by 30 days
- ② Filing with the IRS
 - ➔ Paper filing due by February 28, 2023
 - Under 250 forms – proposed IRS rule to reduce to 100 and phase down to only 10!
 - ➔ Electronic filing due by March 31, 2023

**What types of IRS audits are
being issued?**

- Applicable large employers must provide health benefits to employees
- Health benefits must include Minimum Essential Coverage
- Health benefits must be of Minimum Value
 - Plan must pay for at least 60% of covered benefits
- Pay or Play Penalties (Section 4980H)
 - A: Not offering benefits
 - Or not offering to at least 95% of benefit eligible
 - Or not charging an affordable employee contribution
 - 2022: 9.61% of employee's wages
 - B: Benefits are not MEC or MV or Affordable
- Filing to IRS
- Furnishing 1095 forms to employees

Coordination of Information



More than just “pay or “play”

➤ Penalties for Non-Compliance:

- ✓ IRS Information Returns
- ✓ Failure to file on time or failure to include all information
- ✓ Filing with incorrect information

➤ Individual Statements:

- ✓ Failure to furnish on time or failure to include all required information
- ✓ Furnishing with incorrect information

➤ Failure to offer unaffordable coverage

Penalties



IRS is only up to auditing 2019 filing year!

ACA Penalties	2022 Reporting Year	2021 Reporting Year	2020 Reporting Year	2019 Reporting Year
Failure to offer coverage (annual per employee)	\$2,750	\$2,700	\$2,570	\$2,500
Unaffordable coverage (annual per employee)	\$4,120	\$4,060	\$3,860	\$3,750
Failure to File (annual per employee count W2)	\$280	\$270	\$270	\$270
Failure to Furnish (annual per employee count W2)	\$280	\$270	\$270	\$270
Less than 30 days late filing	\$50 per return/\$556,000 Max	\$50 per return/\$556,000 Max	\$50 per return/\$556,000 Max	\$50 per return/\$556,000 Max
31 + days late but before August 1	\$110 per return/\$1,669,000 Max	\$110 per return/\$1,669,000 Max	\$110 per return/\$1,669,000 Max	\$110 per return/\$1,669,000 Max
After August 1 or not at all	\$280 per return/\$3,339,000	\$270 per return/\$3,339,000	\$270 per return/\$3,339,000	\$270 per return/\$3,339,000
Intentional Disregard	\$550 per return/No Maximum	\$550 per return/No Maximum	\$550 per return/No Maximum	\$550 per return/No Maximum

ACA Penalties	2018 Reporting Year	2017 Reporting Year	2016 Reporting Year	2015 Reporting Year
Failure to offer coverage (annual per employee)	\$2,320	\$2,260	\$2,160	\$2,080
Unaffordable coverage (annual per employee)	\$3,480	\$3,390	\$3,240	\$3,120
Failure to File (annual per employee count W2)	\$260	\$260	\$260	\$260
Failure to Furnish (annual per employee count W2)	\$260	\$260	\$270	\$260
Less than 30 days late filing	\$50 per return/\$536,000 Max	\$50 per return/\$536,000 Max	\$50 per return/\$536,000 Max	\$50 per return/\$536,000 Max
31 + days late but before August 1	\$100 per return/\$1,609,000 Max	\$100 per return/\$1,609,000 Max	\$100 per return/\$1,609,000 Max	\$100 per return/\$1,609,000 Max
After August 1 or not at all	\$260 per return/\$3,218,500	\$260 per return/\$3,218,500	\$260 per return/\$3,218,500	\$260 per return/\$3,218,500
Intentional Disregard	\$530 per return/No Maximum	\$530 per return/No Maximum	\$530 per return/No Maximum	\$530 per return/No Maximum

IRS Letter 226J

Dear Employer,

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

Proposed ESRP

\$7,689,600.00

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.

You generally owe an ESRP for a month if either:

- You did not offer minimum essential coverage (MEC) to at least 95% of your full-time employees (and their dependents) and at least one of your full-time employees was certified as being allowed the PTC; or
- You offered MEC to at least 95% of your full-time employees (and their dependents), but at least one of your full-time employees was certified as being allowed the PTC (because the coverage was unaffordable or did not provide minimum value, or the full-time employee was not offered coverage).

This letter certifies, under section 1411 of the Affordable Care Act, that for at least one month in the year, one or more of your full-time employees was enrolled in a qualified health plan for which a PTC was allowed. Based on this certification and information contained in our records, we are proposing that you owe an ESRP of \$7,689,600.00.

What you must do

Review this letter carefully. It explains the proposed ESRP and what you should do if you agree or disagree with this proposal. You must tell us whether you agree or disagree with the proposed ESRP by the Response date on the first page of this letter.

Form 1094-C (2016)

Part III ALE Member Information—Monthly

		(a) Minimum Essential Coverage Offer Indicator		(b) Section 4980H Full-Time Employee Count for ALE Member
		Yes	No	
23	All 12 Months	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4669

IRS Letter 5699

- We're proposing penalties for failure to timely file the following forms as required by Internal Revenue Code Section (IRC) 6056. IRC Section 6721 imposes a penalty for such failures.
 - Form 1094-B, Transmittal of Health Coverage Information Returns
 - Form 1095-B, Health Coverage
 - Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
 - Form 1095-C, Employer-Provided Health Insurance Offer and Coverage
- We're proposing penalties for failure to timely provide the following forms to individuals as required by Internal Revenue Code Section (IRC) 6056. IRC Section 6722 imposes a penalty for such failures.
 - Form 1095-B, Health Coverage
 - Form 1095-C, Employer-Provided Health Insurance Offer and Coverage

We enclosed an explanation of items, including the amount of the penalty and why it's been charged.

If you agree with the penalties, send a copy of this letter and payment payable to the U.S. Treasury to the address listed above. If you agree but can't pay the full amount now, pay as much as you can to avoid interest, and then contact us using the information above.

If you disagree with the penalties, you'll have the opportunity to appeal the penalties after we send you a formal request for payment.

If you have questions, you can call or write to the information above.

LAW:

IRC §6056 requires an ALE to file information returns with the IRS and provide statements to their full-time employees about the offer, if any, of health insurance coverage. Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, are used by employers to report information about offers of health coverage and enrollment in health coverage for their employees.

IRC §6721 imposes a penalty in the amount of \$260 for each failure to file a return as required by IRC Section 6056.

IRC §6722 imposes a penalty in the amount of \$260 for each failure to furnish a statement to the employee as required by IRC Section 6056.

GOVERNMENT POSITION:

Since there was no response from the Employer to the inquiry letters showing that the returns were either filed or the employer was not required to file the information returns, penalties under IRC 6721 and 6722 are being proposed for 2016:

IRC 6721- Failure to File: \$86,060.00

IRC 6722 - Failure to Furnish: \$85,800.00

The Service determined the employer filed 330 Form(s) W-2 for 2016.

The failure to file penalty is calculated using the number of Form(s) W-2 filed since we do not have information indicating how many full-time employees should have received a Form 1095-C, plus one for the failure to file the Form 1094-C Transmittal.

Action Items

Action Items for Employers

- ✓ Review your employee contributions BEFORE your plan renewal begins
- ✓ Know your true employee count at the end of each year
- ✓ Have a well-defined open enrollment plan
- ✓ Review your employee census monthly for benefit eligibility
- ✓ Always collect a waiver form
- ✓ Provide communication to employees about benefit offerings and contribution values
- ✓ Never assume that a “part-time” employee is not eligible for benefits
- ✓ Don’t wait till December to start organizing your data for reporting
- ✓ Never assume the IRS will extend the date to furnish 1095 forms to employees

➤ Plan Annually. Review Monthly. Organize Quarterly



Any Questions?



Do you need help with ACA reporting?
Book a Meeting

COMBINED

(888) 881-0111

HrHelp@combinedhcm.com

www.combinedhcm.com

THANK YOU!



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