



Solving the Affordable Care Act Mystery

A Guide for Employers

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Deciphering Key Clues to Ensure Compliance



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INTRODUCTION



WHY should employers be concerned about the Affordable Care Act in 2015?

The Affordable Care Act is one of the most significant workplace laws of the last decade. It gives employers the opportunity to amend their benefit strategies based on new requirements. These new regulations may require a shift in the culture of the organization. Employers need to be developing action plans for ensuring they are in compliance.

The Affordable Care Act (ACA) is also known as the Patient Protection and Affordable Care Act (PPACA) or Health Care Reform. The Act was passed with the goal of ensuring all Americans have access to health care, control skyrocketing health care costs, and improve the delivery of health care in America.

The Obama administration announced a postponement in the initial roll out of part of the employer mandate that is required by the ACA, including reporting requirements that are related to these details of the law. Final regulations for employers with 100 or more employees were relaxed and compliance was shifted from 2014 to 2015, with an additional delay until 2016 for employers with 50-99 employees. Even with the changes many employers are finding it challenging to comply with the complex legal requirements of the ACA tax regulations.

It is important that business owners understand the complexities of the laws and take steps to ensure their organizations are in compliance with both the new actions and reporting elements required.

The purpose of this publication is to help you understand and prepare for the new regulations and to ensure your organization will be in compliance in a timely manner, thereby avoiding penalties.

For more information about the penalties for employers who fail to comply with the ACA please visit the [Information Reporting Penalties section of the IRS website](#).

If you are unsure whether your company is ready for the employer mandate, use this guide as a tool to investigate the clues and unscramble the ACA employer code once and for all.



SECTION I



WHAT are the requirements for employers?

What is the Affordable Care Act employer mandate?

The Affordable Care Act's employer mandate is a provision in the law that is designed to help more Americans have access to health care insurance by promoting employer-sponsored health coverage. The ACA employer mandate is also known as "Employer Shared Responsibility" and "ACA Pay to Play." The basic premise of the mandate is to require businesses to provide their employees with affordable health care coverage.

Affordability and Minimum Value Requirements

In order to meet the requirements of the law, the health care coverage offered by an Applicable Large Employer (ALE) needs to meet two standards. By law, it must:

- **Provide minimum value.** Minimum value is defined as health care coverage that is expected to cover at least 60 percent of a participant's covered expenses, and
- **Be affordable.** Affordability is determined by the amount of the employee's contribution for single coverage, which cannot exceed 9.5 percent of the employee's household income.

What Types of Employers Must Comply?

The employer shared responsibility rules apply to the following types of common law employers:

- For-profit,
- Nonprofit, and
- Government employers.

What If The Business Has More Than One Company or Group?

Two or more companies that have the same ownership, or are otherwise related, are treated as a single employer and all employees are considered a "controlled group." All of the employees in a controlled group are counted with determining ALE status.

SECTION II



WHAT was delayed and how do the delays affect my business?

Some provisions in the employer mandate were delayed until 2015 and others were delayed until 2016. Many other provisions were not delayed and needed to be complied with in 2014. Here is a run down:

Provisions Delayed Until 2015

Employers with 100 or more employees are required to offer ACA compliant health care coverage to 70% of their full-time employees in 2015. This increases to 95% and applies to employers with 50 - 99 employees in 2016.

Provisions Delayed Until 2016

Employers with 50-99 employees are not required to comply until 2016.

Provisions Not Delayed That Required Compliance in 2014

- Imposing additional taxes and fees, such as the transitional reinsurance and Patient-Centered Outcomes Research Institute fees and the health insurance industry tax;
- Eliminating pre-existing condition exclusions;
- Eliminating waiting periods that are longer than 90 days;
- Eliminating annual dollar limits on essential health benefits;
- Including coverage for certain clinical trials;
- Eliminating maximums on annual deductibles and limiting out-of-pocket costs; and
- Eliminating the ability of grandfathered plans to exclude adult children who have access to other employer coverage.



SECTION III



WHO is required to comply?

Employers with 50 or more employees are required to comply with the new ACA employer mandate.

Who is Required to Offer Coverage?

The employer mandate requirement to offer coverage or pay a penalty only applies to an applicable large employer (ALE). Under the ACA, an employer is an ALE if it employs an average of at least 50 full-time employees, including full-time equivalent employees (FTEs) on business days during the preceding calendar year. ALE status is determined by adding the total number of full-time employees and FTEs for each calendar month in the prior calendar year and dividing that number by 12. If the result is above the 50 full-time employee threshold, then an employer is considered an ALE for the entire following calendar year, even if the number of full-time employees and FTEs falls below 50 during the year.

Who has Applicable Large Employer (ALE) status?

Once an employer determines the number of full-time and FTE employees, it can determine whether it is considered an ALE.

However, if the employees in excess of 50 were seasonal workers who were not employed for more than 120 days, then the employer is not an ALE.

Be mindful of the special rule for new employers. An employer that did not exist on any business day in the prior year will be treated as an ALE if it reasonably expects to employ an average of at least 50 full-time employees, including FTEs, on business days during the current calendar year and it actually employs an average of at least 50 full-time employees, including FTEs, on business days during the calendar year.

SECTION IV



WHO is considered an employee?

Who is considered an employee?

An employee is an individual who performs services for the business under the common law standard. The common law standard rules that any individual who performs services for an employer and the employer has control over what work will be done and how it will be done is considered an employee.

The status of an independent contractor can be tricky. It is important to correctly classify individuals who meet the common law standard because if they are misclassified it could mean that the number of ALE's is miscalculated, which could result in unplanned penalties.

Who is NOT Considered an Employee?

The following types of employees are not considered to be employees:

- Leased employees,
- Sole proprietors,
- Two percent S corporation shareholders,
- Partners in a partnership, and
- Independent contractors who do not meet the common law standard.



SECTION V



HOW Do I Calculate the Full-Time Equivalency of Part-Time Employees?

There are two types of part-time employees that need to be taken into account.

1. Hourly employees

The actual hours of service must be calculated for employees that are paid on an hourly basis.

2. Non-hourly employees

For non-hourly employees, an employer may count:

- Actual hours of service;
- A workday equivalency in which the employer credits the employee with an 8-hour day for each day worked; or
- A weeks-worked equivalency in which the employer credits the employee with 40 hours of service for each week worked.
- An employer may use a different method of calculation for different classifications of employees, but must treat all employees that are in the same classification in a reasonable and consistent manner.

How Do I Calculate Vacation, Holiday, Sick or Other Types of Leave?

The law stipulates that an employee's hours of service include the hours an employee is paid or entitled to payment. Hours for which payment is due, such as vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence must be included in the hours of service.

SECTION VI



WHAT are the Affordability Safe Harbor Provisions?

What Are the Affordability Safe Harbor Provisions?

The Form W-2 Safe Harbor provides that coverage is considered affordable (regardless of household income) if the cost of self-only coverage does not exceed 9.5 percent of the employee's calendar year wages, as reported in Box 1 of the employee's Form W-2. The determination is made after the end of the calendar year on an employee-by-employee basis. Adjusted Form W-2 amounts are used for employees who did not work for the entire year.

In order to qualify for this safe harbor, the employee's contribution must be a consistent amount or percentage of the Form W-2 wages during the year and the employer may not make discretionary adjustments to the employee's required contribution for a pay period.

The Rate of Pay Safe Harbor allows an employer to determine affordability based on the rate of pay at the beginning of the coverage period. Coverage is affordable if an employee's monthly contribution for self-only coverage does not exceed 9.5 percent of the employee's monthly wages. For hourly-paid employees, the monthly wage is determined by taking the employee's hourly rate of pay at the beginning of the year and multiplying by 130 hours per month. The monthly wage for salaried employees is the employee's monthly salary at the beginning of the year.

If an employee's wages increase during the year, the 9.5 percent is based on the lower rate of pay. Alternatively, an employer should understand that this provision is not available if the employer reduces an employee's wages during the year.

The Federal Poverty Line Safe Harbor provides that coverage is affordable if the employee's contribution for self-only coverage does not exceed 9.5 percent of the federal poverty line for a single person.



SECTION VII



HOW should an employer prepare for new federal reporting requirements?

An employer that meets the criteria for being an ALE needs to prepare to meet employer reporting requirements.

The following forms need to be filed:

FORM	ACCOUNTS FOR	TO WHOM	WHEN
Form 1094-C	<ul style="list-style-type: none"> ✓ Full-time employees ✓ Total headcount ✓ Was minimal essential coverage offered? ✓ Was an applicable 4980H Safe Harbor used? 	IRS	<p>By February 28</p> <p>or</p> <p>March 31 if filed electronically for the first year</p>
Form 1095-C	<ul style="list-style-type: none"> ✓ Proof of offer of coverage (with code) ✓ Employee's share of the lowest cost monthly premium ✓ Was an applicable 4980H Safe Harbor used? 	IRS	<p>By February 28</p> <p>or</p> <p>March 31 if filed electronically for the first year</p>
Written statement (1095-C)	<ul style="list-style-type: none"> ✓ Employee's name, address and contact information ✓ Information for the employee on the return being filed 	Each covered employee	<p>Employees must receive their copy of Form 1095-C by January 31st for the first year</p>

SECTION VIII



WHERE can employers get forms and additional information?

WHERE can employers get forms and additional information?

You can [download Form 1094-C](#) and [download 1095-C](#) directly from the IRS.

Additional information about the [Affordable Care Act and Applicable Large Employers](#) can be found on the [IRS.gov](#) site.

Questions? Don't hesitate to call us at **1-800-451-8519**.



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