

ACA FAQ for Employers

Q: What is an Applicable Large Employer (ALE)?

A: An Applicable Large Employer (ALE) is an employer that employed an average of 50 or more full-time employees (as defined by the ACA), including full-time equivalent employees, during the preceding calendar year. An ALE is subject to the Employer Shared Responsibility provisions under Internal Revenue Code (IRC) Section 4980H and the annual reporting obligation under IRC Section 6056.

Q: Who is considered a full-time employee?

A: IRC Section 4980H and the applicable regulations provide that a full-time employee for any calendar month is an employee who is credited with an average of at least 30 hours of service per week during the calendar month, or at least 130 hours of service during the calendar month. Hours of service include paid time off due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or family and medical leave of absence.

Q: What is the Employer Shared Responsibility requirement under the Affordable Care Act (ACA)?

A: Employers that employ 50 or more full-time employees, including full-time equivalent employees ("FTEs"), must offer affordable group health plan coverage to their full-time employees (and their dependent children up to age 26) or potentially be liable for a penalty.

A penalty applies for ALEs (see definition below) if the ALE (A) fails to offer minimum essential coverage to at least 95% of its full-time employees, or (B) offers coverage that does not meet certain minimum value and affordability requirements, and at least one full-time employee receives a premium tax credit to purchase coverage through an Exchange/Marketplace.

Q: What is the Annual Reporting requirement under IRC Sections 6055 and 6056?

A: Under IRC Section 6055, any person that provides minimum essential coverage to an individual must report certain health coverage information to the Internal Revenue Service (IRS) annually. Additionally, a statement disclosing minimal essential coverage information must be furnished to covered individuals. Health insurance issuers and carriers must file Form 1095-B for most health insurance coverage, including individual market coverage and insured coverage sponsored by employers. The Form 1095-B's are transmitted to the IRS using Form 1094-B.

Under IRC Section 6056, ALEs are required to provide an annual information return to the IRS (Form 1094-C) and statements (Form 1095-C) to each of the ALE's full-time employees regarding whether and to what extent health care coverage was offered to each employee during the prior calendar year. Individuals that are full-time employees of an ALE and receive benefits through a fully-insured group health plan will receive both a Form 1095-B from the insurance carrier and a Form 1095-C from their employer.

Q: Which employees will receive a Form 1095-C?

A: Form 1095-C is required to be provided to all employees who worked as a full-time employee in any month of the previous calendar year for an ALE. An ALE that sponsors a self-funded plan must complete Part III of Form 1095-C for any employee that was enrolled in the health coverage in the previous year, regardless of whether the individual was employed on a full-time basis. For ALEs that offer fully insured coverage, the employer must complete Parts I and II of the Form 1095-C for each full-time employee, but Part III is left blank.

Q: What are the reporting deadlines for ALEs?

A: Similar to the Form W-2 reporting deadline, Form 1095-C statements must be provided annually to employees by March 2nd of the year following the year to which the statement relates. You will meet the requirement to furnish Form 1095-C to an employee if the form is properly addressed and mailed on or before the due date. If the regular due date falls on a Saturday, Sunday, or legal holiday, you must file by the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday. Forms 1094-C and Forms 1095-C must be provided to the IRS by February 28th (March 31st, if filed electronically) of the year following the year to which the statement relates.

Q: Can a third-party organization file the forms 1094-C and 1095-C?

A: Yes, a third-party may file Forms 1094-C and 1095-C with the IRS on behalf of the employer and provide employees with the required Form 1095-Cs. ADP TotalSource will file the returns on behalf of its clients that qualify and authorize us to do so.

Q: Does an ALE have to file a Form 1095-C for COBRA participants and/or retirees?

A: An ALE that sponsors a fully insured health plan is required to issue a Form 1095-C to any individual that was a full-time employee during one or more months of the previous calendar year. If the COBRA participant or retiree worked on a full-time basis during at least one month of the previous calendar year, a Form 1095-C would be required.

Q: Does an ALE have to report for union employees that are covered under a union plan? A: An ALE must file a Form 1095-C for any union employee that worked on a full-time basis during one or more months of the previous calendar year. Currently, the IRS has approved simplified reporting requirements for ALEs with employees that are eligible for coverage through a multiemployer plan. Instructions to Form 1095-C provide guidance on the applicable codes that should be used in Part II of the Form 1095-C for reporting such coverage. Use of the simplified codes should mean that employers would not have to obtain information from the union regarding the coverage provided. In future years, different reporting requirements may apply for ALEs with employees covered through a multiemployer plan.



Q: How should an employer report for a full-time employee that was not offered coverage during certain months in the calendar year because they were in a waiting period?

A: Final regulations issued on the Employer Shared Responsibility provisions clarify that an ALE will not be subject to a penalty under the Employer Shared Responsibility provisions for failing to offer coverage during an employee's initial waiting period, provided that the employee is offered coverage by the first day of the calendar month that immediately follows the employee's initial three full calendar months of employment. It should be noted that this rule applies for potential penalty purposes only. Other ACA provisions outside of the Employer Shared Responsibility requirements require that any waiting period not exceed 90 days from date of hire. Form 1095-C instructions contain guidance on how to reflect the waiting period on Form 1095-C. The waiting period would be considered a "Limited Non-Assessment Period" and reported as such on Form 1095-C