



ACA TRACKING & REPORTING

Addressing Common Risks, Avoiding Costly Penalties

TODAY'S PANELIST



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SET SEG Employee Benefits



OVERVIEW

01. Risk factors

02. Common data errors and best practices to address them

03. Compliance considerations



This presentation is intended for educational purposes only. Please contact your tax and legal advisors regarding situations specific to your district.



BIGGEST ISSUES

- Failure to offer to enough full-time employees
- Failure to send and file forms on time



KNOW YOUR YEARLY RISK

4980H(a) Risk

- The IRS requires you to offer Minimum Essential Coverage to at least 95% of your full-time employees or to all but five full-time employees and five is greater than 5% of the number of full-time employees.
- ***This is the larger of the two penalties***
- ***“Sledgehammer” penalty***
 - *We recommend that all large employer school districts meet the requirement, even if only offering coverage without subsidizing coverage*

4980H(b) Risk

- If the district has met the 4980H(a) requirement and one of your employees who was ACA eligible were given a subsidy at the marketplace, you could be liable for the (b) risk.
- ***This is the lesser of the two penalties***
- ***“Pick hammer penalty”***
 - *We recommend districts evaluate whether meeting this requirement makes business sense*
 - *In some cases, incurring the assessment is lower risk (financially) for schools than making coverage affordable*



MAILING 1095-C FORMS

- **Mail your forms to your employees by the required date, usually Jan. 31.**
 - This deadline has been extended every year until now; you may receive additional leniency from the IRS for 2021 forms.
 - Note that for previous filing years, “good-faith” has been available, meaning that filing forms by the deadline was enough to avoid inaccurate/incomplete filing assessments.
- ***Watch for end-of-year guidance from the IRS to determine the employee form filing deadline for 2021 forms and how aggressively you should ensure your forms are accurate and complete.***
- ***The IRS could impose a per form mailing fee if forms are not mailed by the deadline.***
 - You can always correct forms but, to avoid the failure-to-mail fee, you must show that you mailed the forms by the required date.



FILING 1095-C/1094-C FORMS

- Be sure to file the forms with the IRS by the due date. *The IRS could impose a per form filing fee if forms are not filed by the deadline.*
 - You can always correct the forms but to avoid the filing fee, you should file them by the required date.
- **Who can mail to the IRS?**
 - Groups with less than 250
- **Who is required to file electronically with the IRS?**
 - 250 or more forms must file electronically



PROPOSED RULE – ELECTRONIC FILING

The IRS recently proposed a rule to expand electronic-filing requirements. If finalized, employers must file electronically, if:

- Filing 100 or more 1095-Cs in 2022
- Filing 10 or more 1095-Cs in subsequent calendar years

**The proposed rule has not yet been approved, so districts should continue to refer to the 250-form rule for now.*



APPLICABLE LARGE EMPLOYER (ALE) STATUS

- Smaller districts - be sure you have a way of calculating the ALE count.
- If you do not have more than 50 full-time employees, including full-time equivalents in the previous calendar year, you are not required to comply with the ACA.
- ***A full-time employee is an individual that works, on average, 30 or more hours of service each week.***
 - For this purpose, 130 hours in a calendar month is treated as the monthly equivalent of 30 hours of service per week.
 - Hours worked by employees with fewer than 30 hours per week must be counted—and then divided by 120 per month—to determine the number of FTEs.
 - The number of FTEs is then added to the actual full-time employee count.



REVIEW YOUR DATA MONTHLY

- The IRS assesses penalties for non-compliance based on a monthly calculation. To avoid penalties, it is best to review your ACA compliance information monthly.
- **Common pitfall: Schools can fall behind in their monthly evaluation. By the time they catch up with their monthly analysis, it's too late to fix the compliance issue.**
 - For example, at the end of every calendar month, business officials should be looking to determine what newly eligible employees must be offered coverage to maintain compliance with the offer requirement. As soon as the next month begins, it may be too late to effectuate the offer and use it to factor into the 95% offer requirement.



COMMON DATA ERRORS

Classify Employees Correctly

- The ACA requires you designate an employee as one of the following four designations:
 - *Full Time* – Reasonably expected to work at least 30 hours per week.
 - *Part Time* – Reasonably expected to work less than 30 hours per week.
 - *Variable* – Cannot reasonably determine at time of hire whether the employee will work at least 30 hours per week.
 - *Seasonal* – Hired to work for a time in which the customary annual employment is for a period of 6 months or less and that period begins each calendar year in approximately the same part of the year.
- Using the 12-month lookback measurement method:
 - If you classify a new hire employee as full time you are required to offer them affordable, Minimum Value coverage no later than the first day of the fourth full calendar month.



COMMON DATA ERRORS

Classify Employees Correctly

- It is very important to “reasonably” determine at time of hire whether the employee will work at least 30 hours per week.
 - If your new employee is not paid on a Salary basis and not credited for hours if they are not working, such as sick time, personal leave, vacation, parent teacher conference, snow days, it could be reasonable to say you are unsure if the employee will work at least 30 hours per week.
 - If your employees are on a probationary (waiting) period before being offered medical benefits and the probationary period is extended past 90-calendar days because the employee did not work the hours, this may be a variable-hour position.



COMMON DATA ERRORS

Classify Employees Correctly



- **BEST PRACTICE:** Offer full-time employees medical benefits no later than the first day of the fourth full calendar month even if the employee is required to pay 100% of the medical premiums until the probationary period is met.
- If you classify an employee as part time, variable or seasonal in accordance with the ACA they are not considered ACA eligible until their hours average over 30 hours in an Initial Measurement period (IMP).
- For educational institutions, variable and part time and seasonal employees' hours are measured the same.



COMMON DATA ERRORS

Measure All Employees' Hours

Measure “all” employees: The district is responsible for offering medical benefits to employees who measure full time. If you are not measuring all employees, you would not know if they are truly eligible.



COMMON DATA ERRORS

Part-time Employees – Different Assignments & Overtime

- The ACA is all about hours of service, therefore if you have a part-time employee who works extra hours or two different jobs, all the hours added together count towards medical eligibility.
- It is important to measure all employees' hours accurately.
- Offer medical benefits to all ACA eligible even if the plan is not deemed affordable.



COMMON DATA ERRORS

Retired Employees Returning to Work

If you are utilizing the look-back method to determine ACA medical eligibility, it is easy to say a retiree is not eligible for medical benefits. However, keep in mind that for the ACA, previous hours worked determine medical eligibility for a future period.



COMMON DATA ERRORS

Retired Employees Returning to Work



- **BEST PRACTICE:** If a retiree returns to work within 26 consecutive weeks, previous hours worked count towards medical eligibility. Therefore, they may be eligible for medical benefits upon the rehire/return date.
- If a retiree returns to work during a stability period associated with a measurement period that they averaged over 30 hrs, offer them medical coverage even if they are required to pay 100% of the cost.
 - Making the offer to an ACA eligible employee satisfies the 4980H(a) requirement.
 - The affordability piece, 4980H(b) requirement, would only be a risk for the district if the employee was given a subsidy at the Marketplace for medical benefits and they actually enroll.
- Retirees eligible for benefits with the Office of Retirement Services would likely not qualify for a subsidy at the Marketplace.



COMMON DATA ERRORS

Summer Breaks

- The ACA says you cannot penalize an employee for not working during educational breaks (such as summer breaks) when they are not scheduled to work.
- An employee can get credit for up to 501 hours a calendar year for educational breaks.
- Understand how your ACA tracking system credits employees' hours during the summer/educational break(s).
 - Educational break credit is based on a calendar year (January thru December).
 - Measurement periods are not normally based on calendar years so employees could get credit for more than 501 hrs in a measurement period.



COMMON DATA ERRORS

- **Adjustments in payroll:** Hours worked should be tracked, if an adjustment is made in payroll, be sure that your ACA payroll hours are adjusted accordingly.
- **Benefits end date:** The date a terminated employee is no longer eligible for the benefit should be the day after termination or the first of the month following termination.
 - It should not be their termination date.
- **Termination dates:** Be sure to terminate your employees if they are no longer active.
- **Address changes:** Be sure to update your employee addresses so the forms are not mailed to an incorrect address



COMMON DATA ERRORS

Offering an Affordable Plan

- To avoid both the 4980H(a) and (b) penalties you are required to offer coverage to at least 95% of your FTEs and that plan must be affordable and meet Minimum Value requirements
- There could be some instances when you may not be able to offer an affordable plan to a group of employees.
- For a plan to be affordable it must meet one of the Safe Harbor Tests:
 - Rate of Pay (based on an employee working 130 hours a month)
 - Federal Poverty Level (FPL)
 - W2 box 1 earnings



COMMON DATA ERRORS

Offering an Affordable Plan



- **BEST PRACTICE:** Offer all ACA eligible employees the opportunity to enroll in the plan regardless of whether the plan is deemed unaffordable. Making the offer satisfies the 4980H(a) requirement.
- The 4980H(b) requirement would only come into play if the employee was given a subsidy at the Marketplace for medical benefits and they enroll in Marketplace coverage.
- Sometimes, the 4980H(b) penalty is lower than how much it would cost to make the plan affordable.



COMMON DATA ERRORS

Self-funded Medical Plans

If your plan is self-funded (self-insured) you must let the IRS know who is enrolled in the self-insured plan. Complete part III of the 1095-C form.



IRS 226J LETTERS

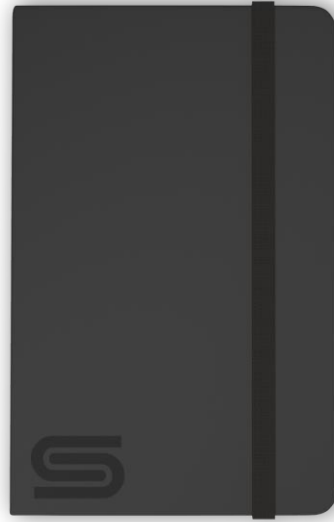
- If you get an IRS 226J letter, it is suggested that you immediately reach out to the IRS and request an extension.
- Normally the IRS will grant a 30-day extension, but you should request the extension before the response due date.
- Review all data for accuracy.
 - Ex: Hire or termination date(s)/payroll hours/benefit offers, form codes
- Respond to the notice by the due date or extension due date
 - Keep a copy of all documents used to Appeal your notice.
 - Be sure the appeal is postmarked on or before the required due date.
 - Send the documents to the IRS using either FED EX or UPS.



IN-HOUSE VS. OUTSOURCING ACA

- **Staffing needs:**
 - Do you have on-staff employees able to oversee the process vs an organization that is equipped to assist with all compliance issues/questions/forms mailing and filing/meeting required deadlines?
- **Training:**
 - Do you have on-staff employees who are educated on the requirements and have the time to continuously monitor the regulations, so your district can implement changes to meet newly-emerging requirements?
 - Who will train any new staff? If this person leaves/retires from the district who will take over?
- **Understanding the monetary risk:**
 - Is your finance group able to calculate and plan for any fees for not complying?
- **Appealing with the IRS:**
 - Have you consulted with your legal team to be sure they are well versed and able to assist with any ACA appeals?
 - What is inhouse personnel cost to administer vs the cost to outsource?





QUESTIONS



CONTACT US



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