

Affordable Care Act Who is Responsible for 6055/6056?

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Disclaimer

The materials and information contained herein are intended only to provide general information and in no way constitute legal advice. If you have specific questions or concerns, please consult legal counsel.

Finally, this presentation is current as of the date of this presentation, and the information contained herein is subject to change.



What is an ALE and What does ACA Require of ALEs?

Applicable Large Employer (ALE): Single employer or group of related employers who employed an average of at least 50 full-time employees (including FT equivalent employees) in the prior calendar year.

Employer Mandate: Offer health coverage to at least 95% of full-time employees & dependents and offer minimum value/affordable coverage to full-time employees. ALEs who fail to comply risk exposure to employer shared responsibility penalties (Section 4980H).

Health Coverage Reporting: Report compliance (or lack thereof) with the employer mandate by completing Forms 1094-C/1095-C filing and distribution requirements each tax year. ALEs who fail to comply risk exposure to reporting penalties (Sections 6721 & 6722).

How do we count FTEs?

- **Applicable Large Employers “ALE’s” are those with 50 or more FTEs and have to offer Affordable and Minimum Value healthcare to all Eligible Full – Time Employees**
- Employers with fewer than 50 FTEs are Small Group Employers and are NOT mandated to offer coverage
- Formula: $FT (120 \text{ hours/month}) + (\text{Total part-time hours worked in a month}/120) = FTE \text{ (Full – Time Equivalents)}$
- Example: $93 \text{ FTs} + (960 \text{ hrs}/120 = 8) = 101$
- For 2021, you must run the formula for each calendar month of 2020, add the months together and divide by 12. This will give you the overall FTE count for the year

Carrier Filing Obligations vs Your Obligation

The federal government requires health insurance companies to provide fully insured subscribers with the 1095-B form.

1095-B forms will be issued to fully insured subscribers and will list spouse and dependent information.

ALE Self Insured plans must provide dependent information on the 1095C form.

Organizations with less than 50 FTE, who are on a self-insured plan, must provide 1095 B forms including dependent information.

Six Falsehoods Regarding ACA Filing

We lost a lot of employees this year, so we are no longer an ALE and don't need to file.

We are fully insured, so our Carrier will file for us.

We are self insured, but we have less than 50 FTE, so we have no filing obligation.

We have all part-time employees, so this does not apply to us.

All of our employees waive benefits, so this does not apply to us.

We offer to everyone, so this does not apply to us.

IRS Uses What ALEs Report on Forms 1094-C/1095-C
to Assess Employer Shared Responsibility Penalties

Offer

The A Penalty: ALE fails to offer MEC to 95% of FTEs and dependents, and one FTE enrolls in subsidized Exchange coverage.

*2020 A Penalty: \$2,570 (\$214.17/mo)
x total FTEs – pro rata share of 30 FTEs*

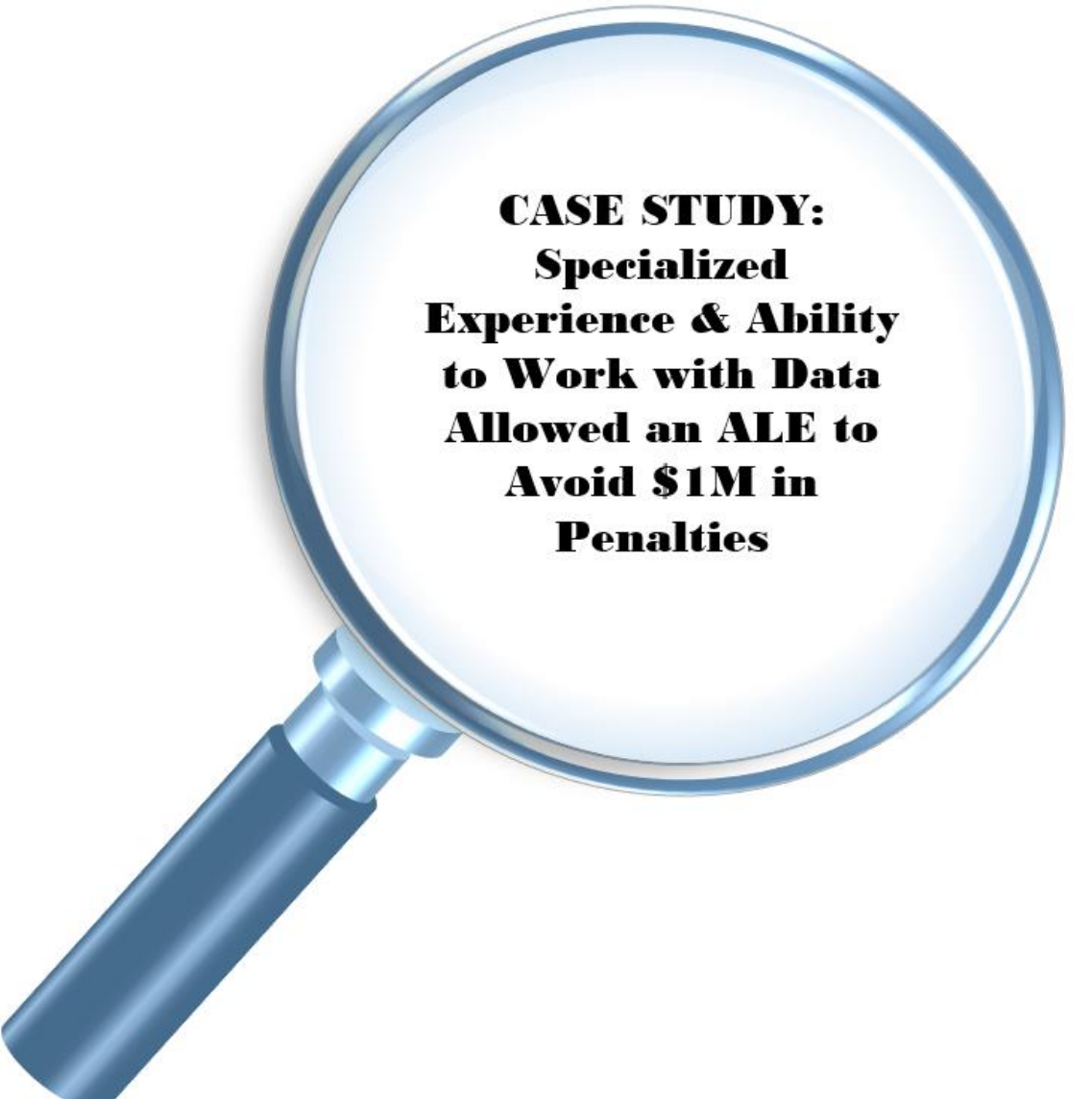
*2021 A Penalty: \$2,700 (\$225.00/mo)
x total FTEs – pro rata share of 30 FTEs*

The B Penalty: ALE offers to 95%, but not MV or affordable (EE required contribution exceeds 9.83% of 2021 income), and one FTE enrolls in subsidized Exchange coverage.

*2020 B Penalty: \$3,860 (\$321.67/mo) x
each FTE receiving subsidy*

*2021 B Penalty: \$4,060 (\$338.33/mo) x
each FTE receiving subsidy*

Quality



**CASE STUDY:
Specialized
Experience & Ability
to Work with Data
Allowed an ALE to
Avoid \$1M in
Penalties**

Healthcare Employer receives 226J Letter proposing more than \$1M in employer shared responsibility penalties & engages attorney from prestigious firm without direct experience.

The result was significant attorney fees with no change in the penalty amount.

Lesson: High hourly rates do not equate to success. Employers should work with someone who has specialized knowledge of the employer mandate and reporting requirements and experience responding to IRS Letter 226J.



Questions ALEs Should Be Asking

- * If you offered coverage in prior tax years, what was offered and how did you determine eligibility?
- * Can you still access benefits and payroll source data in prior tax years?
- * If you outsourced 1094/1095-C reporting to a third party provider, how much assistance will they be able to provide should you receive any IRS penalty enforcement letters?
- * What procedures do you have with office staff to ensure they will forward any IRS letters in a timely manner?

Questions?





Thank you for your time

Additional questions?

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