Affordable Care Act Penalties

An applicable large employer (ALE) is defined as an employer that employed on average at least 50 full-time employees (FT), including full-time equivalent employees, during the preceding calendar year.

- An ALE may face penalties if FT employees receive subsidies in the marketplace to purchase health insurance coverage.

Penalties

A. Penalty "A": Applies when an employer does not offer minimum essential coverage (MEC) to at least 95% of all FT employees and their children to age 26 and one FT employee receives a subsidy in the marketplace.

B. Penalty "B": Applies when an employer offers MEC to at least 95% of the FT employees and their children to age 26, but the coverage is not affordable or does not provide minimum value (MV).

ALE Calculation

- To determine its workforce size for a year, an employer must: add the total number of FT employees for each month of the prior calendar year to the total number of full-time equivalent employees for each month of the prior calendar year and divide total by 12.
- Companies with a common owner or that are otherwise related under Section 414 of the IRC are generally combined and treated as a single employer for determining ALE Status.

Identifying FT Employees

- An employee is a full-time employee for a calendar month if they average at least 30 hours of service per week or 130 hours of service.
- Hours of Service: All hours an employee is paid for working, plus hours paid for time not worked, such as vacation, holiday, illness, incapacity, jury duty, or paid leave of absence.

Determining Full-Time Employees

1. **Monthly Measurement Method:** Employer determines if an employee is full-time on a month-by-month basis by looking at whether the employee has at least 130 hours of service each month.
   - Only Employers with noticeably clear and fixed work schedules should use this method.
2. **Look-Back Measurement Method:** Employer may determine full-time status of an employee over an established period of time (This method is not meant to determine if the employer is an ALE or not). Rules vary based on ongoing employees vs. new employees.

Ongoing Employees

- Employee employed by ALE for at least one complete standard measurement period.
  - Standard Measurement Period (SMP): At least 3 but not more than 12 months-must match SP.
  - Administrative Period (AP): Optional length between 0-90 days chosen by the Employer.
  - Stability Period (SP): No shorter than 6 months and no longer than SMP, may be tied to plan year.
- Once identified as a FT employee, an employee is offered coverage to begin on the first day of the SP.
- Employee remains a FT employee for the entire SP, even if their hours fluctuate.

New Employees

- Employee employed by ALE for less than one complete standard measurement period.
- Employer may impose a 90-day waiting period and no penalty will apply if coverage is offered by the first day of the 4th month.
- Employer has to establish Measurement Periods.
- Initial Measurement Period (IMP): At least 3 but not more than 12 months, same length of ISP except for 11-month IMP is permitted with 12-month ISP (begins counting all new employees hired in a month on the first of the following month).
- Initial Administrative Period (IAP): Optional length between 0-90 days, combined IMP and IAP must be equal or less than the 14th month following start date.
- Initial Stability Period (ISP): Must equal the SP for ongoing employees in length.

Small Employers

- Small employers who are not considered an ALE should use the ALE Calculation each year to ensure compliance if the workforce is close to 50 total employees.
- An employer is not automatically an ALE once they reach ALE status. They must average over 50 during the entire previous calendar year before required to provide MEC and MV to employees and become subject to ACA "pay or play" penalties.
- First year of ALE Status: MV, affordable coverage must be offered no later than April 1 in order to avoid penalties for failure to offer on 1/1.
- Different rules apply to employers not in existence in prior calendar year.