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## ACA COMPLIANCE AND PENALTY SUPPORT SERVICES

The ACA requires applicable large employers (ALEs) to either provide affordable, minimum value health coverage to full-time employees or face penalties. Employers and plan sponsors must also comply with reporting and disclosure requirements under the ACA, such as the health coverage reporting requirements under Code Sections 6055 and 6056.

### Gente Penalty Support Services

- Employers subject to ACA Section 6056 reporting may receive IRS letters such as **Letter 226J** (proposing Employer Shared Responsibility Payments), **Letter 5699** (requesting missing filings), and **Letter 5005-A** (final assessment notice), among others.
- These notices are often confusing due to complex IRS language, tight response deadlines, and the need for detailed documentation to dispute penalties. Failure to respond properly can result in costly fines.
- Gente helps clients navigate these letters by preparing response letter templates, gathering necessary supporting documentation, as well as assisting in any 1094/1095 form correction filing requirements.

### ACA Violations: Penalties and Excise Taxes

The Affordable Care Act (ACA) includes numerous reforms for group health plans and creates compliance obligations for employers and health plan sponsors. The ACA, for example, restricts health plans from imposing pre-existing condition exclusions and requires coverage for preventive care services without cost sharing. Some of the reforms for health plans apply to all health plans, while others apply only to non-grandfathered plans or to insured plans in the small group market.

Failing to comply with the ACA's requirements can trigger substantial penalties for an employer. The potential consequences vary depending on the ACA requirement that is involved and the nature and extent of the violation. Employers should keep these consequences in mind as they review their compliance with the ACA.

### Penalties Related to Reporting Requirements

The Code includes the following general penalties that apply for violations of reporting requirements, including those imposed under the ACA:

- Failure to file correct information returns (under Code Section 6721); and
- Failure to furnish correct payee statements (under Code Section 6722).

However, penalties may be waived if the failure is due to reasonable cause and not to willful neglect. Penalties may be reduced if the reporting entity corrects the failure within a certain period of time. Also, lower annual maximums apply for entities that have average annual gross receipts of up to \$5 million for the three most recent taxable years.

For returns due in 2024 and 2025, the adjusted penalty amounts are:

Penalty Type	Per Violation		Annual Maximum		Annual Maximum for Employers with ≤\$5 Million in Gross Receipts	
	2024	2025	2024	2025	2024	2025
General	\$310	\$330	\$3,783,000	\$3,987,000	\$1,261,000	\$1,329,000
Corrected within 30 days	\$60	\$60	\$630,500	\$664,500	\$220,500	\$232,500
Corrected after 30 days, but before Aug. 1	\$120	\$130	\$1,891,500	\$1,993,500	\$630,500	\$664,500
Intentional disregard*	\$630	\$660	N/A		None	

*\*For failures due to intentional disregard of the filing requirement, the penalty is equal to the greater of either the listed penalty amount or 10% of the aggregate amount of the items required to be reported correctly.*

## Employer Shared Responsibility Rules

The ACA's employer shared responsibility rules are often referred to as the "pay or play" rules or the employer mandate. Under these rules, ALEs may face penalties if one or more of their full-time employees obtains a subsidy through an Exchange. An ALE is an employer that had, on average, at least 50 full-time employees, including full-time equivalents (FTEs), during the preceding calendar year. An individual may be eligible for a subsidy either because the ALE does not offer health plan coverage to the individual or offers coverage that is either not "affordable" or does not provide "minimum value" (MV).

The amount of the employer shared responsibility penalty generally depends on whether an ALE offers coverage to **substantially all** full-time employees (and their dependents). In general, "substantially all" means 95% of an employer's full-time employees and dependents.

## Penalty for Not Offering Coverage to Substantially All Full-time Employees

Under these rules, an ALE will be subject to a penalty if any of its full-time employees receives a subsidy for an Exchange plan. The monthly penalty assessed on ALEs that do not offer coverage to substantially all full-time employees (and their dependents) is equal to **the ALE's number of full-time employees (minus 30) multiplied by 1/12 of \$2,000 for any applicable month**. The \$2,000 penalty amount is adjusted for each calendar year Penalty for Offering Coverage That Does Not Meet ACA Standards

ALEs that do offer coverage to substantially all full-time employees and dependents may still be subject to penalties if at least one full-time employee obtains a subsidy for an Exchange plan because the ALE did not offer coverage to all full-time employees, or the ALE's coverage is unaffordable or does not provide MV.

The monthly penalty assessed on an ALE for each full-time employee who receives a subsidy will be **1/12 of \$3,000 for any applicable month**. However, the total penalty for an employer would be limited to the penalty amount for not offering coverage to substantially all full-time employees. The \$3,000 penalty amount is adjusted for each calendar year (**\$4,460** for 2024 and **\$4,350** for 2025).

Contact [sales@gente.solutions](mailto:sales@gente.solutions) for additional information regarding ACA Compliance and Penalty Management.

