LEGAL UPDATE

IRS Releases ACA Pay-or-Play Penalties for 2027

On May 4, 2026, the IRS released updated penalty amounts for 2027 related to the employer shared responsibility ("pay-or-play") rules under the Affordable Care Act (ACA). For calendar year 2027, the adjusted $2,000 penalty amount is **$3,780**, and the adjusted $3,000 penalty amount is **$5,670**. This is an increase from the penalty amounts for the 2026 calendar year, which are $3,340 and $5,010, respectively.

HIGHLIGHTS

- The IRS has released the penalty amounts for 2027 under the ACA's pay-or-play rules.
- The pay-or-play rules require ALEs to offer affordable, MV health coverage to their full-time employees (and dependents) or risk paying a penalty.
- The penalty amounts for 2027 are an increase from the penalty amounts for 2026.
- ALEs should consider these penalty amounts when reviewing their health plan coverage for each year.

Pay-or-Play Rules

The ACA requires applicable large employers (ALEs) to offer affordable, minimum-value (MV) health coverage to their full-time employees (and dependents) or potentially pay a penalty to the IRS. An ALE is an employer with at least 50 full-time employees, including full-time equivalent employees, during the preceding calendar year.

An ALE may be subject to a pay-or-play penalty if at least one full-time employee receives a premium tax credit for purchasing individual health coverage through an Exchange and the ALE:

- Did not offer health plan coverage to "substantially all" (generally, at least 95%) of full-time employees and their dependents;
- Offered health plan coverage to substantially all full-time employees, but not to the specific full-time employee receiving the credit; or
- Offered health plan coverage to full-time employees that was unaffordable or did not provide MV.

Pay-or-Play Penalty Calculations

Depending on the circumstances, one of two penalties may apply under the pay-or-play rules, the 4980H(a) penalty or the 4980H(b) penalty, as follows:

1. Under Section 4980H(a), an ALE is subject to a penalty if it does not offer coverage to substantially all of its full-time employees (and dependents) and any one of its full-time employees receives a subsidy toward their Exchange plan. This monthly penalty is equal to **the ALE's number of full-time employees (minus 30) multiplied by one-twelfth of $2,000 (as adjusted) for any applicable month.** For 2027, the adjusted penalty amount is **$3,340**; or
2. Under Section 4980H(b), ALEs that offer coverage to substantially all full-time employees (and dependents) may still be subject to a penalty if at least one full-time employee obtains a subsidy through an Exchange 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 is one-twelfth of $3,000 (as adjusted) for any applicable month**. For 2027, the adjusted penalty amount is **$5,010**. However, the total penalty for an ALE is limited to the 4980H(a) penalty amount.

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