



Take
Command

ACA Reporting and ICHRA

November 15, 2023

takecommandhealth.com



Disclaimer

- The information herein should not be construed as legal or tax advice in any way. Regulations, guidance and legal opinions continue to change.
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Introduction



Agenda & Presenters

1 Introduction to ACA Reporting (1094/1095)

2 How Take Command Can Help

3 Expert Insights with ETC

4 Q&A



Kyle Estep

Vice President

Take Command Health



Matt Scott

Director of Sales

ETC Companies



Audience & Purpose

This presentation is intended for:

- Business owners
- HR & finance professionals
- Employee benefits brokers & consultants

If you have an:

✓ Individual Coverage HRA (ICHRA)

✗ Qualified Small Employer HRA (QSEHRA)

We are not licensed tax professionals.
We are health insurance & compliance nerds.



Background

Affordable
Care Act



"Employer
Mandate"



Annual
"Employer
Reporting"

"Employer Shared
Responsibility Provisions"

It goes by many names...

Names you may hear:

- "Year End Reporting"
- "1095 Reporting"
- "ACA Reporting"

When ICHRA arrived in 2020, the IRS had to update reporting guidance for these programs.



QSEHRA / ICHRA and ACA Reporting

Subject to employer mandate!

Qualified Small Employer HRA (QSEHRA)



No ACA Reporting.
But \$\$ amount offered through a QSEHRA must be reported on employees' Form W-2s

Non-ALE offering Individual Coverage HRA (ICHRA)



"B Forms"
Forms 1094/95-B

ALE offering Individual Coverage HRA (ICHRA)



"C Forms"
Forms 1094/95-C



Due Dates for ACA reporting

When must forms be filed & distributed?

IRS Form	Given to Employees	Filed with the IRS
1094-C 1094-B	n/a	Feb 28 th (paper) April 1st (electronic)
1095-C 1095-B	March 1st	

Link to IRS instructions

- [1094/95-B \(non-ALEs\)](#)
- [1094/95-C \(ALEs\)](#)



How Take Command Can Help



How Take Command Can Help?

What will Take Command provide?

Data! Take Command will load a CSV data file in the administrator portal that includes important information.

Will Take Command complete and file these forms?

No. Take Command is not licensed to help our clients complete, file and distribute 1094/95 forms.



The 1095-B | Non-ALEs

May be a surprise to new ICHRA admins

- Non-ALEs do not file these for traditional group health plans
- Why for ICHRA? b/c technically it's a self-insured group plan

Good News!

- It's simple and we have data
- Only for employees participating in the ICHRA program
- No concern about employer mandate penalties

Form 1095-B Health Coverage VOID CORRECTED OMB No. 1545-2252
Department of the Treasury Internal Revenue Service Do not attach to your tax return. Keep for your records. Go to www.irs.gov/Form1095B for instructions and the latest information. **2022**

Part I Responsible Individual

1 Name of responsible individual—First name, middle name, last name 2 Social security number (SSN) or other TIN 3 Date of birth (if SSN or other TIN is not available)

4 Street address (including apartment no.) 5 City or town

8 Enter letter identifying Origin of the Health Coverage (see instructions for coverages 1 through 6)

Part II Information About Certain Employer-Sponsored Coverage

10 Employer name

12 Street address (including room or suite no.) 13 City or town

Part III Issuer or Other Coverage Provider (see instructions)

16 Name

19 Street address (including room or suite no.) 20 City or town 21 State or province 22 Country and ZIP or foreign postal code

Part IV Covered Individuals (Enter the information for each covered individual.)

(a) Name of covered individual(s) First name, middle initial, last name	(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of coverage												
				Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
23			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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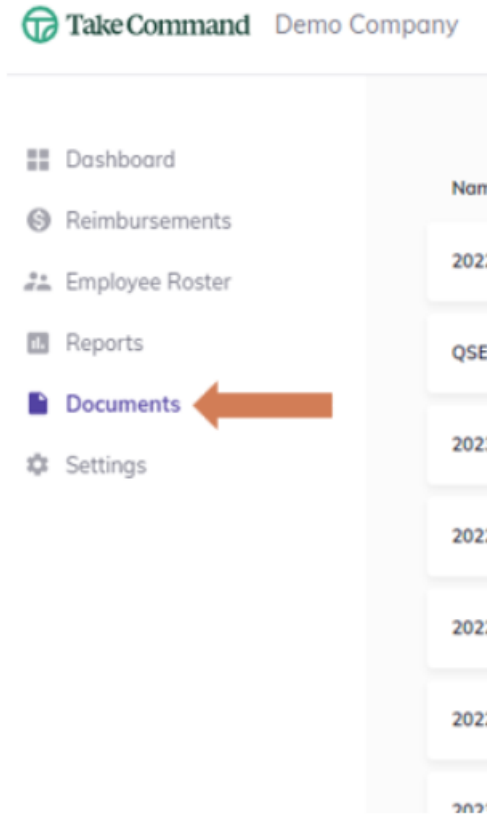
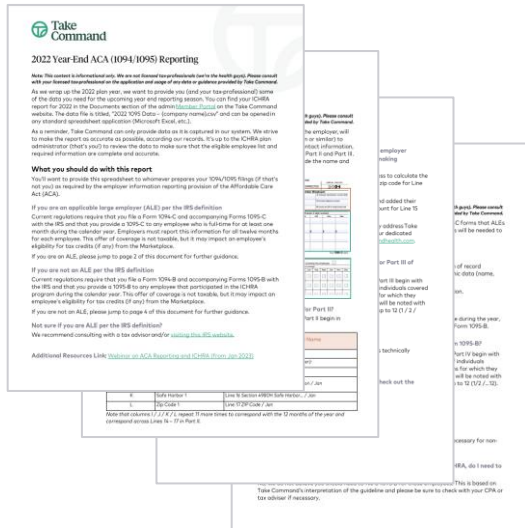
Eligible employer-sponsored plans are minimum essential coverage and include the following.

1. Group health insurance coverage for employees under the following.
 - a. A governmental plan, such as the Federal Employees Health Benefits program.
 - b. An insured plan or coverage offered in the small or large group market within a state.
 - c. A grandfathered health plan offered in a group market.
2. A self-insured group health plan for employees. Generally, an HRA, including an individual coverage HRA, is a self-insured group health plan.



The 2023 Plan Year Data File

- CSV data file for 2023 plan year to be uploaded into portals in early January 2024
- A guidance document will also be made available



CSV file will be in the 'Documents' section of the admin portal



Ensuring Accurate Data

If you're an ALE:



There may be missing data that you need to provide!

- **What?** Zip code + county and/or date of birth
- **Why?** Some employees never logged in to Take Command platform
- **Why important?** This info is needed for Take Command to calculate data you'll need to file 1095 forms



What you need to do:

- Take Command will reach out to admins directly if there is missing data
- Send completed information by **Nov. 30th**



Need Help?

Can Take Command recommend a vendor to help?

Yes! ETC specializes in helping employers complete ACA reporting.

How can ETC help you with your IRS Reporting?

ETC will:

1. Gather your legal company information for IRS setup.
2. Collect an Employment Roster with pertinent data.
3. Process ICHRA medical benefit enrollment information from Take Command.
4. Collect and analyze information on those that waive insurance.
5. Print & Mail forms to employees and electronically file with the IRS

Compliance – Check!



in partnership with





Expert Insights with ETC

Current State of 2023 Reporting

Where are we now?

- Furnishing deadline of Friday, March 1, 2024.
- Paper filing deadline of Wednesday, February 28, 2024 for those with less than 10 total federal forms
- Electronic filing deadline of Monday, April 1, 2024 without an 8809 extension.
- Good faith relief first expired with 2021 reporting and continues to be unavailable.
- All employers with more than 10 federal forms due are required to file electronically with the IRS all forms (1099, W2, 1095) – See dates above

1095 reporting obligation. The rules have changed!

On February 21, 2023, the IRS issued final regulations regarding electronic filing requirements beginning calendar year of 2024. **Now, any business who files more than 10 returns of any sort (including W2s, 1099s, and 1095 Forms) MUST file electronically and cannot mail these forms to the IRS any longer.** While the IRS has provided an online portal for filing 1099s, the IRS has not done anything to assist employers in electronically filing 1095 Forms through its AIR System. What this means is that employers who have historically mailed in their 1095 Forms need to either go through the painful process of registering with the IRS, obtaining their TCC number, and testing with the IRS for at least 3 months to file OR find a vendor to file the 1095 Forms through the AIR System for them. Employers who ignore these new electronic filing requirements risk exposure to civil penalties. For the 2024 filing year, the penalty for failure to electronically file forms is \$310 per 1095 Form.

For more information:

<https://www.irs.gov/newsroom/irs-and-treasury-issue-final-regulations-on-e-file-for-businesses>

<https://www.irs.gov/tax-professionals/iris-application-for-tcc>

Draft Instructions Confirm

Electronic Filing



If you are required to file 10 or more information returns during the year, you must file the forms electronically. The 10-or-more requirement applies in the aggregate to certain information returns that are original or corrected returns.

1094-C and 1095-C

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, and the instructions, such as legislation enacted after they were published, go to [IRS.gov/Form1094C](https://www.irs.gov/Form1094C) and [IRS.gov/Form1095C](https://www.irs.gov/Form1095C).

What's New

The electronic-filing threshold for information returns required to be filed on or after January 1, 2024, has been decreased to 10 or more returns. See [Electronic Filing](#), later.

Additional Information

For information related to the Affordable Care Act, visit [IRS.gov/ACA](https://www.irs.gov/ACA). For the final regulations under section 6056, Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer-Sponsored Plans, see T.D. 9661, 2014-13 I.R.B. 855, at [IRS.gov/irb/2014-13_IRB/ar09.html](https://www.irs.gov/irb/2014-13_IRB/ar09.html). For the final regulations under section 6055, Information Reporting of Minimum Essential Coverage, see T.D. 9660, 2014-13 I.R.B. 842, at [IRS.gov/irb/2014-13_IRB/ar08.html](https://www.irs.gov/irb/2014-13_IRB/ar08.html) and T.D. 9970, 2023-02 I.R.B. 311, at [IRS.gov/irb/2023-02_IRB](https://www.irs.gov/irb/2023-02_IRB). For the final regulations under section 4980H, Shared Responsibility for Employers Regarding Health Coverage, see T.D. 9655, 2014-9 I.R.B. 541, at [IRS.gov/irb/2014-9_IRB/ar05.html](https://www.irs.gov/irb/2014-9_IRB/ar05.html). For answers to frequently asked questions regarding the employer shared responsibility provisions and related information reporting requirements, visit [IRS.gov](https://www.irs.gov).

For information related to filing Forms 1094-C and 1095-C electronically, visit [IRS.gov/AIR](https://www.irs.gov/AIR). For FAQs specifically related to completing Forms 1094-C and 1095-C, go to [IRS.gov/Affordable-Care-Act/Employers/Questions-and-Answers-about-Information-Reporting-by-Employers-on-Form-1094-C-and-Form-1095-C](https://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-about-Information-Reporting-by-Employers-on-Form-1094-C-and-Form-1095-C).

For additional guidance and proposed regulatory changes relating to section 6055, including the requirement to solicit the TIN of each covered individual for purposes of the reporting of health coverage information, see Proposed Regulations section 1.6055-1(h) and Regulations section 301.6724-1.

General Instructions for Forms 1094-C and 1095-C

See [Definitions](#), later, for key terms used in these instructions.

report information about each employee to the IRS and to the employee. Forms 1094-C and 1095-C are used in determining whether an ALE Member owes a payment under the employer shared responsibility provisions under section 4980H. Form 1095-C is also used in determining the eligibility of employees for the premium tax credit.

ALE Members that offer employer-sponsored, self-insured coverage also use Form 1095-C to report information to the IRS and to employees about individuals who have minimum essential coverage under the employer plan.

Who Must File

An ALE Member must file one or more Forms 1094-C (including a Form 1094-C designated as the Authoritative Transmittal, whether or not filing multiple Forms 1094-C), and must file a Form 1095-C for each employee who was a full-time employee of the ALE Member for any month of the calendar year. Generally, the ALE Member is required to furnish a copy of the Form 1095-C (or a substitute form) to the employee.

An ALE Member is, generally, a single person or entity that is an Applicable Large Employer, or if applicable, each person or entity that is a member of an Aggregated ALE Group. An Applicable Large Employer, generally, is an employer with 50 or more full-time employees (including full-time equivalent employees) in the previous year. For purposes of determining if an employer or group of employers is an Applicable Large Employer, all ALE Members under common control (an Aggregated ALE Group) are aggregated together. If the Aggregated ALE Group, taking into account the employees of all ALE Members in the group, employed on average 50 or more full-time employees (including full-time equivalent employees) on business days during the preceding calendar year, then the Aggregated ALE Group is an Applicable Large Employer and each separate employer within the group is an ALE Member. Each ALE Member is required to file Forms 1094-C and 1095-C reporting offers of coverage to its full-time employees (even if the ALE Member has fewer than 50 full-time employees of its own).

For more information on which employers are subject to the employer shared responsibility provisions of section 4980H, see [Employer](#) in the *Definitions* section of these instructions. For more information on determining full-time employees, see [Full-Time Employee](#) in the *Definitions* section of these instructions, which includes information on the treatment of new hires and employees in Limited Non-Assessment Periods.



TIP For purposes of reporting on Forms 1094-C and 1095-C, an employee in a Limited Non-Assessment Period is not considered a full-time employee during that period.

IRS Uses Form W-2 to Identify Non-Filer ALEs & Reporting Penalties Apply Per Form 1094/1095-C

Example: If an ALE failed to file 1 Form 1094-C and 100 Forms 1095-C with the IRS and distribute 100 Forms 1095-C to employees, the total penalty exposure is **\$62,000 if double jeopardy.**

So, you handed out the PDF forms, but sent paper to the IRS, **\$31,000 penalty.**

\$50 if corrected within 30 days

\$100 if corrected after 30 days but before Aug. 1

\$310 if no corrections are made *or if not filing on the correct medium.*

\$620 if acted with intentional disregard for distribution and filing.



Watch out for double penalties – they apply per form filed with the IRS and furnished to individuals.

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 Minimum Essential health coverage to at least 95% of full-time employees & dependents – 4980H(a) and offer minimum value/affordable coverage to full-time employees – 4980H(b).

ALEs who fail to comply risk exposure to employer shared responsibility penalties (Section 4980H).

Health Coverage Reporting: All ALE's must report to the IRS by completing Forms 1094-C/1095-C and distributing to employees by due date and filing with the IRS by March 31. ALEs who fail to comply are subject to a failure to file penalty of up to \$310 per form.



Don't forget about Controlled Groups...

REMEMBER THAT Certain employer aggregation rules apply in determining whether an employer is an ALE subject to the employer information reporting provisions. Under those rules, all employers treated as a single employer under Internal Revenue Code section 414(b), (c), (m), or (o) are treated as one employer for purposes of FTE calculation and determining ALE status. The employers that comprise the Aggregated ALE Group are each referred to as ALE Members. Source: <https://www.irs.gov/affordable-care-act/employers/information-reporting-by-applicable-large-employers>

ACA DETERMINATION OF ALE (and Non-ALE) STATUS

ALE CALCULATION TOOL USING LAST CALENDAR YEAR EMPLOYEES AND HOURS FOR WHICH PAY IS RECEIVED



Row #	FTE Formula	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL
1	Total EE Count working 120+ hrs.	38	34	39	37	43	43	44	46	45	48	53	54	
2	Combined EE hrs. working less than 120 hrs.	700	878	788	976	685	814	860	640	812	710	574	671	
3	Divide Row 2 by 120	5.833	7.317	6.567	8.133	5.708	6.783	7.1667	5.33	6.767	5.9167	4.782	5.592	
4	Add Rows 1 & 3 together for FTE Count	43.833	41.317	45.567	45.133	48.708	49.783	51.167	51.33	51.767	53.917	57.782	59.592	599.900

Next steps: Add ALL 12 months Total FT and FTE count and divide by 12 to determine average monthly FT and FTE Count for entire year. **Round the final number down** to a whole number to determine your ALE status.

599.900 / 12 = 49.992

Rounded down to 49 FT and FTEs

Employer Shared Responsibility Penalty Refresher

Offer

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

2022 A Penalty: **\$2,750 (\$229.17/mo)** x total FTEs – pro rata share of 30 FTEs

2023 A Penalty: **\$2,880 (\$240.00/mo)** x total FTEs – pro rata share of 30 FTEs

2024 A Penalty: **\$2,970 (\$247.50/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 9.61% of 2022 income), and one FTE enrolls in subsidized Exchange coverage.

2022 B Penalty: **\$4,120 (\$343.33/mo)** x each FTE receiving subsidy

2023 B Penalty: **\$4,320 (\$360.00/mo)** x each FTE receiving subsidy

2024 B Penalty: **\$4,460 (\$371.67/mo)** x each FTE receiving subsidy

Quality

Risk of Over Reporting

Form **1095-C**
Department of the Treasury
Internal Revenue Service

Employer-Provided Health Insurance Offer and Coverage

Do not attach to your tax return. Keep for your records.
Go to www.irs.gov/Form1095C for instructions and the latest information.

VOID

CORRECTED

600120

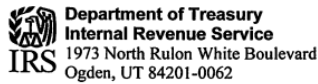
OMB No. 1545-2251

2023

Part I Employee				Applicable Large Employer Member (Employer)									
1 Name of employee (first name, middle initial, last name)		2 Social security number (SSN)		7 Name of employer				8 Employer identification number (EIN)					
3 Street address (including apartment no.)				9 Street address (including room or suite no.)				10 Contact telephone number					
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code			
Part II Employee Offer of Coverage			Employee's Age on January 1						Plan Start Month (enter 2-digit number):				
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)													
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)													
17 ZIP Code													

Reporting UnAffordable Offers for **ANYONE** will trigger penalties

And when you get on the RADAR, you tend to stay there.



Date: 5/7/2021
Tax year: 2018
Employer ID number: [REDACTED]
Person to contact: 4980H Response Unit
Employee ID number: L226J
Contact telephone number: 866-379-6176
Contact e-fax number: 877-792-2723
Response date: 6/6/2021

[REDACTED] INDEPENDENT SCHOOL DISTRI

Dear [REDACTED] INDEPENDENT SCHOOL DISTRI:

We have made a preliminary calculation of the Employer Shared Responsibility Payment (ESRP) that you owe.

Proposed ESRP \$78,880.00

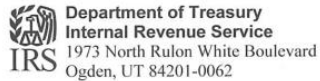
Our records show that you filed one or more Forms 1095-C, Employer-Provided Health Insurance Offer and Coverage, and one or more Forms 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, with the IRS. Our records also show that for one or more months of the year at least one of the full-time employees you identified on Form 1095-C was allowed the premium tax credit (PTC) on his or her individual income tax return filed with the IRS. Based on this information, we are proposing that you owe an ESRP for one or more months of the year.

You generally owe an ESRP for a month if either:

- You did not offer minimum essential coverage (MEC) to at least 95% of your full-time employees (and their dependents) and at least one of your full-time employees was certified as being allowed the PTC; or
- You offered MEC to at least 95% of your full-time employees (and their dependents), but at least one of your full-time employees was certified as being allowed the PTC (because the coverage was unaffordable or did not provide minimum value, or the full-time employee was not offered coverage).

This letter certifies, under Section 1411 of the Affordable Care Act, that for at least one month in the year, one or more of your full-time employees was enrolled in a qualified health plan for which a PTC was allowed.

Based on this certification and information contained in our records, we are proposing that you owe an ESRP of \$78,880.00.



Received
FEB 14 2022
Chief Financial Officer

Date: 2/11/2022
Tax year: 2019
Employer ID number: [REDACTED]

Person to contact: 4980H Response Unit
Employee ID number: L226J
Contact telephone number: 866-379-6176
Contact e-fax number: 877-792-2723
Response date: 3/13/2022

[REDACTED] INDEPENDENT SCHOOL DISTRI

De [REDACTED] INDEPENDENT SCHOOL DISTRI:

We have made a preliminary calculation of the Employer Shared Responsibility Payment (ESRP) that you owe.

Proposed ESRP \$62,187.50

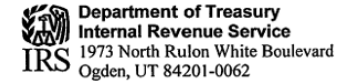
Our records show that you filed one or more Forms 1095-C, Employer-Provided Health Insurance Offer and Coverage, and one or more Forms 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, with the IRS. Our records also show that for one or more months of the year at least one of the full-time employees you identified on Form 1095-C was allowed the premium tax credit (PTC) on his or her individual income tax return filed with the IRS. Based on this information, we are proposing that you owe an ESRP for one or more months of the year.

You generally owe an ESRP for a month if either:

- You did not offer minimum essential coverage (MEC) to at least 95% of your full-time employees (and their dependents) and at least one of your full-time employees was certified as being allowed the PTC; or
- You offered MEC to at least 95% of your full-time employees (and their dependents), but at least one of your full-time employees was certified as being allowed the PTC (because the coverage was unaffordable or did not provide minimum value, or the full-time employee was not offered coverage).

This letter certifies, under Section 1411 of the Affordable Care Act, that for at least one month in the year, one or more of your full-time employees was enrolled in a qualified health plan for which a PTC was allowed.

Based on this certification and information contained in our records, we are proposing that you owe an ESRP of \$62,187.50.



Date: 12/16/2022
Tax year: 2020

Employer ID number: [REDACTED]

Person to contact: 4980H Response Unit
Employee ID number: L226J

Contact telephone number: 866-379-6176
Contact e-fax number: 877-792-2723
Response date: 1/15/2023

[REDACTED] INDEPENDENT SCHOOL DISTRI

Dear [REDACTED] INDEPENDENT SCHOOL DISTRI:

We have made a preliminary calculation of the Employer Shared Responsibility Payment (ESRP) that you owe.

Proposed ESRP \$19,943.54

Our records show that you filed one or more Forms 1095-C, Employer-Provided Health Insurance Offer and Coverage, and one or more Forms 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, with the IRS. Our records also show that for one or more months of the year at least one of the full-time employees you identified on Form 1095-C was allowed the premium tax credit (PTC) on his or her individual income tax return filed with the IRS. Based on this information, we are proposing that you owe an ESRP for one or more months of the year.

You generally owe an ESRP for a month if either:

- You did not offer minimum essential coverage (MEC) to at least 95% of your full-time employees (and their dependents) and at least one of your full-time employees was certified as being allowed the PTC; or
- You offered MEC to at least 95% of your full-time employees (and their dependents), but at least one of your full-time employees was certified as being allowed the PTC (because the coverage was unaffordable or did not provide minimum value, or the full-time employee was not offered coverage).

This letter certifies, under Section 1411 of the Affordable Care Act, that for at least one month in the year, one or more of your full-time employees was enrolled in a qualified health plan for which a PTC was allowed.

Based on this certification and information contained in our records, we are proposing that you owe an ESRP of \$19,943.54.



Next Steps & Reminders

- Submit any missing data by Nov. 30th
- Expect data & guidance from TC in early January
- Deadlines
 - March 1st – Provide 1095 forms to employees
 - April 1st – File forms electronically with IRS

Looking for help? Connect with the team at ETC



Q&A



Kyle Estep

Vice President

Take Command Health



Matt Scott

Director of Sales

ETC Companies



Employee Required Contribution on Line 15

For ICHRA, calculating the monthly "Employee Required Contribution" for Line 15 is a bit more complex than with a traditional group health plan

Why?? Health insurance premiums in the individual market vary by geography and age

The simple formula for calculating the amount to enter on Line 15:

$$\text{Employee Required Contribution} = \text{LCSP Premium} - \text{ICHRA Allowance}$$

LCSP = Lowest-cost silver plan an employee could purchase on the marketplace

ICHRA Allowance = Amount of \$\$ employer offering per month via ICHRA program



Employee Required Contribution on Line 15

Example:

- John works for Acme, an ALE per IRS definition
- John receives an ICHRA offer of \$500 / month
- John is 40 years old and based on where he lives, the premium for the lowest-cost silver plan (LCSP) available on the marketplace is \$650 / month
- John receives a 1095-C from Acme at the end of the year with \$150 / month on Line 15
 - LCSP = \$650
 - ICHRA Allowance = \$500 (i.e., employer's contribution)
 - Employee Required Contribution = \$650 - \$500 = \$150

Note: For IRS reporting purposes, it does not matter what health insurance plan John actually enrolled in and / or the actual premium \$\$ amount. All that matters for affordability purposes is the premium of the LCSP.

ACA Reporting Obligations

EMPLOYER Form 1094/1095 (Sections 6055/6056) ACA Reporting Obligations

All Applicable Large Employers (ALE's) have responsibilities regarding **1095 Forms (Employee Statements)** and **1094 Forms (IRS Transmittal Forms)**.

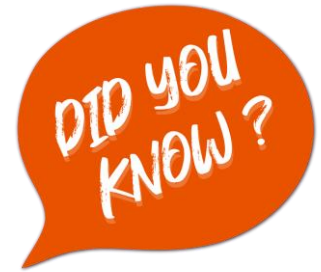
Small employers (Under 50 FTEs) that are part of a controlled group or self/level funded also have obligations.

	ACA Employer Size (FTE's) ⁽¹⁾	Controlled Group Member of ALE? ⁽²⁾	Health Plan Type	Who is Responsible for 1094 B & 1094 C IRS Transmittal?	Who is responsible for 1095 B Statements	Who is responsible for 1095-C Forms (Employee Statements)
SMALL EMPLOYERS	<50 FTE's	No	Fully Insured	Carrier	Carrier	N/A
	<50 FTE's	Yes	Fully Insured	Carrier (1094 B) Employer (1094 C)	Carrier	Employer Sections I & II only
	<50 FTE's	No	Self-Insured / Level Funded	Employer (1094 B Only)	Employer	N/A
LARGE EMPLOYERS	>50 FTE's	No	Fully Insured	Carrier (1094 B) Employer (1094 C)	Carrier	Employer Sections I, II, only
	>50 FTE's	Yes	Fully Insured	Carrier (1094 B) Employer (1094 C)	Carrier	Employer Sections I, II, only
	>50 FTE's	Yes or No	Self-Insured / Level Funded	Employer (1094 C Only)	Carrier	Employer Sections I, II, & III (all)

(1) FTE = Full Time Equivalent. Please refer to the ALE Monthly Calculator Tool provided by ETC Companies.

(2) Controlled groups require authoritative transmittals

Note: Be sure to include COBRA & Retired Enrollees in your reports.



Non ALEs / Small Employers that are not required to offer health plans but DO OFFER a **self or level funded plan** must report to the IRS B Series information.

Remember!

DON'T FORGET PCORI FEES DUE ANNUALLY FOR ALL SELF-FUNDED & LEVEL FUNDED PLANS (HRAs, etc)



2024 = 8.39%

2023 = 9.12%

2022 = 9.61%

2021 = 9.83%

Affordability & Safe Harbors

Safe Harbor is a technique that employers can use to prove affordability since ACA affordability rule is based on employee's *household income* – which employers don't have access to. There are **three methods to choose from**.

RATE OF PAY Method

Use current regular hourly rate of pay for **lowest paid** Full Time employee for least exposure to penalty risk.

This is the most commonly used method.

Max Monthly Charge =

Lowest FT Hourly Rate X 130 Hrs per Month* X ACA Affordability Rate

FORM W-2 Method

Use lowest paid Full Time Employee's wages as reported in Box 1 of Form W-2 for hourly and salaried employees.

Challenge: When utilizing this method from previous W-2, employer may not know if coverage was truly affordable until the end of the year in which the actual affordability rate would be calculated.

This method is not accepted for employees with tips or commissions only as their entire compensation.

Max Monthly Charge =

Annual W-2 of Lowest Paid FT Employee X ACA Affordability Rate) / 12 months

Federal Poverty Limit (FPL) Method

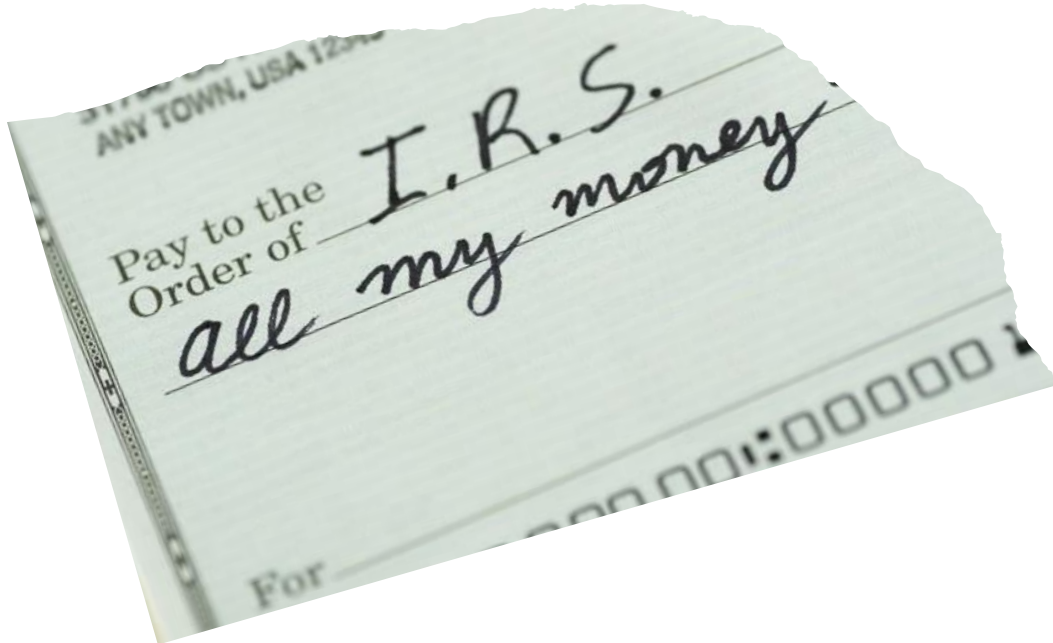
This is the most conservative method and in most cases an **employer will pay more** than the W-2 or Rate of Pay Methods.

- 2023 FPL = \$13,590
- 2022 FPL = \$12,880

Max Monthly Charge =

FPL Annual Rate X ACA Affordability Rate) / 12 months

Employer ACA Penalty Notices



Letter 226J	Sent to Applicable Large Employers (ALEs) identified as failing to comply with the ACA’s Employer Responsibility Mandate. Triggered when one of the ALEs full time employees receives a premium tax credit.
Letter 5040J	Follow up to 226J if unanswered
Letter 5699	Notice of missing ACA reporting requirements or failing to file or furnish required reporting. IRS letter to confirm the status of their filing details when there is what they deem as a missing tax year filing provided <i>prior to penalty assessment</i> .
Letter 5698	IRS letter sent after employer has responded to Letter 5699 and requests more information or informs employer of their liability regarding the filing and furnishing of Forms 1094-C and 1095-C.
Letter 5005-A	Notice to employers that did not file ACA forms 1094-C and 1095-C with tax agency and/or failed to distribute the 1095-Cs to their employees
Notice 972CG	Proposed penalty notice issued to employers that filed late, filed incorrectly, missing information, or a combination of these failures.
CP215	Civil Penalty (CP) 215 is the demand of penalty payment after the IRS has reviewed the employer’s response to an ACA penalty assessment.
CP504B	Civil Penalty 504B is a notice that the IRS is going to levy the employer’s property in the amount the employer owes due to outstanding or non-payment of penalty.
Letter 1865C	Notice to employer that IRS is unable to process their ACA reporting forms 1094/5-C. Common reasons for this letter are due missing information, typo in company name or EIN.
Letter 3064C	Notice that the IRS has decided on a penalty assessment and that the employer may receive or request additional information.
Letter 194C	Response to employer’s response to penalty notice 972CG informing the employer of their decision to either waive the penalty by accepting the employer’s response or request additional information.

- **Note:** This is just a sample of common formal IRS Letters regarding ACA Laws and ESRP. This is not an all-inclusive listing of the ACA related letters that employers can receive.