

# ACA Compliance: What Employers Should Know

ACA compliance has been a complicated but important task since the Affordable Care Act (ACA) was passed into law. Without an experienced compliance partner, companies subject to ACA regulations can easily find themselves immersed in legal trouble and financial penalties. Here are a few highlights that employers should be aware of regarding the ACA and ACA compliance.

## Who Must Comply? Applicable Large Employers (ALEs)

- Employers with at least 50 full time equivalent employees in the previous calendar year
- Have specific reporting obligations under the Affordable Care Act (ACA), and face sharp financial penalties when those requirements aren't satisfied
- Annual penalties for incorrect or late filing can add up quickly and compound the headaches that come with ACA compliance

## 2021 ACA Filing: Deadlines and Penalties

For 2021 ACA reporting, ALEs are required to distribute 1095 forms to its current and past employees by January 31, 2022.

ALEs must then file Forms 1094-C and 1095-C to the IRS by February 28th, 2022 if filing with paper or March 31st, 2022 if filing electronically. There is currently no extension for the deadlines to file with the IRS. Electronic filing is required for companies with 250 or more filings (see new proposed regulation below regarding e-filing).

Both failure-to-furnish and failure-to-file (or late filing) each have penalties of \$280 per return, and penalty amounts double if non-compliance is ruled to be intentional.

For example, an ALE who fails to file or furnish information returns for its 150 employees would be liable for an \$84,000 penalty assessment. If the IRS deems the ALE's non-compliance as intentional, such as deciding not to file, that amount doubles to \$168,000! Note: it was recently announced that good-faith relief is going away, making it more important than ever to comply with ACA regulations.

## New e-Filing Requirements

View the IRS [proposed regulation](#)

New e-Filing requirements could change ACA compliance for many employers. On July 23, 2021, the IRS entered the proposed regulation into the federal registry that will make changes to the previously proposed amendments (i.e., e-Filing requirements) made by the Taxpayer First Act of 2019 (TFA). The TFA authorized the IRS to gradually reduce to 10 tax returns.

The current threshold for requirement of electronic filing of certain taxpayer forms is 250. This new proposed regulation would lower the threshold to 100 returns for tax year 2022, meaning returns due for 2021 year but filed in 2022 will be required to file these forms electronically. Returns of 10 or more filed in 2023 for 2022 year will be required to use electronic filing.

Among a host of forms affected by this regulation are the ACA Individual Mandate and Employer Shared Responsibility Mandate (1095 B&C, 1094B&C forms). This new requirement to aggregate returns when calculating electronic filing thresholds, combined with the lower thresholds themselves, will likely eliminate paper filings for all but the smallest employers.

The regulation's impact would be especially acute for smaller applicable large employers (ALEs) who have been able to file Forms 1094-C and 1095-C on paper when reporting information for employer shared responsibility. Since ALEs, by definition, have at least 50 full-time-equivalent employees, they are likely to pass the 100-return threshold when taking into account Forms W-2 and 1095-C. Given the proposed 2022 effective date, ALEs should monitor this development carefully and prepare for mandatory electronic filing as soon as March 31, 2022.



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