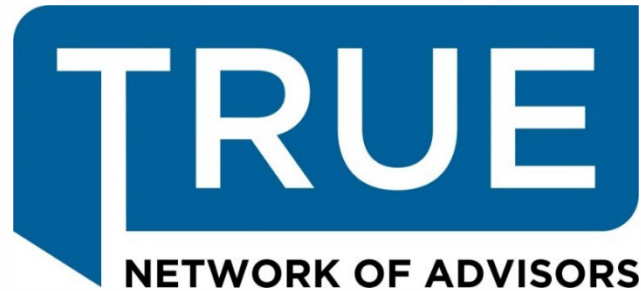


2025 ACA Reporting Season (for the 2024 Calendar Year)



Presented By
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January 2025



Best Lawyers

GOOD NEWS!!

- ▼ The *Employer Reporting Improvement Act* and the *Paperwork Burden Reduction Act* provide some relief for employers
- ▼ No requirement to distribute Forms 1095-C to employees, unless they request it
 - ▼ IF an employee requests Form 1095-C, employer must provide by the later of January 31st of the year following the coverage year or 30 days after the date of the request
 - ▼ **NOTICE** – To take advantage of the new rule, employers provide ***clear, conspicuous, and accessible notice*** to individuals
 - ▼ The IRS has promised to provide guidance when such notice should be provided and in what manner
 - ▼ Good faith effort likely sufficient – consider electronic or posted notice
 - ▼ **IMPORTANT:** No change to filing requirements for Forms 1095-C (or state requirements to furnish employee statements)

GOOD NEWS!!

- ▼ The *Employer Reporting Improvement Act* and the *Paperwork Burden Reduction Act* provide some relief for employers
- ▼ Codifies the ability to provide Forms 1095-C electronically (with consent)
- ▼ Full DOB may be used if SSN is unavailable for dependents
- ▼ Six-year statute of limitations on Employer Mandate Penalties
- ▼ 90 days to respond to Letter 226-J
- ▼ All changes effective now

ACA Reporting & Employer Mandate

- ▼ Applicable Large Employers: 50 or more full-time employees (including full-time equivalents) in the preceding calendar year
- ▼ Form 1094-C and Forms 1095-C
- ▼ ACA reporting is its own requirement and has its own penalties
 - ▼ Penalties: \$330 per form
 - ▼ No longer \$330 x 2 (unless failure to provide upon request)
- ▼ ACA reporting also has significant implications for employer mandate penalties
- ▼ Electronic Filing Required if filing more than **10**
- ▼ **Expired:** Good Faith Transition Relief

2025 ACA Reporting Deadlines

To IRS

Paper Filers

~~February 28, 2025~~

Electronic Filers

March 31, 2025

To Employees

March 3, 2025

(With new rules, the date could be sooner because it is 30 days after request)

ACA Employer Mandate - By The Numbers

Code Section 4980H(a) Penalty	2024: \$2,970 (\$247.50/month) 2025: \$2,900 (\$241.67/month)
Code Section 4980H(b) Penalty	2024: \$4,460 (\$371.67/month) 2025: \$4,350 (\$362.50)
Affordability %	8.39% (2024) <i>(9.02% in 2025)</i> Coverage not <i>affordable</i> —and employee may be eligible for PTC for exchange coverage—if employee’s required contribution for self-only coverage exceeds 8.39% of the employee’s household income. Employer avoids 4980H(b) penalty if it satisfies <i>Affordability Safe Harbors</i> using 8.39%

Common ACA Reporting Challenges

▼ Full-Time Status Determination Methods

▼ Month-to-Month

▼ Look Back Safe Harbor

□ New Employees:

- New Full-Time Employees → Three-Month Grace Period
- New Variable Hour, Part-Time, or Seasonal Employees → Initial Measurement Period Safe Harbor

□ Ongoing Employees:

- Look Back Safe Harbor using Standard Measurement Period

Common ACA Reporting Challenges

Affordability

- ▶ Affordability Threshold = **8.39%** for plan years beginning in 2024
 - ▶ **9.02%** for plan years beginning in 2025
- ▶ Wellness Program Incentives
 - ▶ Assume all employees **FAIL** wellness standard
 - ▶ Except for tobacco cessation wellness programs – assume all employees **PASS**
- ▶ Affordability Safe Harbors
 - ▶ W-2 Safe Harbor
 - ▶ Rate of Pay Safe Harbor
 - ▶ Federal Poverty Level Safe Harbor

ACA Affordability Safe Harbors

ACA Affordability Safe Harbor

Form W-2 Safe Harbor

The Basics

- Employee's required contribution does not exceed **8.39%** of that employee's Form W-2 wages from the ALE Group for the calendar year

“Strings” Attached

- Determined after the end of the calendar year and on an employee-by-employee basis, taking into account the Form W-2 wages and the required employee contribution for that year.
- Employee's required contribution must remain a consistent amount or percentage of all Form W-2 wages during the calendar year (or during the plan year for plans with non-calendar year plan years)
 - an applicable large employer member is not permitted to make discretionary adjustments to the required employee contribution for a pay period
- ACA Reporting rules allow full year contribution / 12
- Must Use Form W-2 Safe Harbor for all months of the calendar year

ACA Affordability Safe Harbors

ACA Affordability Safe Harbor

Rate of Pay Safe Harbor

The Basics

- Hourly employees: satisfied for a calendar month if the employee's required contribution for the calendar month does not exceed **8.39%** of an amount equal to **130 hours** multiplied by the lower of the employee's hourly rate of pay as of the first day of the coverage period (generally the first day of the plan year) or the employee's lowest hourly rate of pay during the calendar month.
- Non-hourly employees: does not exceed **8.39%** of an amount equal to **130 hours** multiplied by the employee's monthly salary, as of the first day of the coverage period (instead of 130 multiplied by the hourly rate of pay).

“Strings” Attached

- Hourly employees: Must use lowest rate of pay (i.e., cannot count raises)
- Non-hourly employees: Unavailable if the monthly salary is reduced, including due to a reduction in work hours
- Generally does not work for tipped or commissioned employees
- May use for some or all months

ACA Affordability Safe Harbors

ACA Affordability Safe Harbor	FPL Safe Harbor
The Basics	<p>An applicable large employer member satisfies the federal poverty line safe harbor with respect to an employee for a calendar month if the employee's required contribution for the calendar month for the applicable large employer member's lowest cost self-only coverage that provides minimum value does not exceed 8.39% of a monthly amount determined as the federal poverty line for a single individual for the applicable calendar year, divided by 12.</p>
“Strings” Attached	<ul style="list-style-type: none">• Basically no strings attached• May use for some or all months• Allows use of the Qualified Offer Method for ACA reporting• Generally results in the lowest employee premium

Affordability Safe Harbor Take-Aways

- ▼ Affordability Threshold = 8.39% for plan years beginning in 2024
 - ▼ 9.02% for plan years beginning in 2025
- ▼ Based on employee's required contribution for the employer's lowest cost self-only coverage that provides minimum value
 - ▼ May not be what employee actually pays (e.g., family coverage, wellness incentives, etc.)
- ▼ **BEWARE** of strings attached
- ▼ We find the most issues with Form W-2 Safe Harbor
 - ▼ Use a *buffer* affordability percentage to avoid the “never-ending math problem”
 - ▼ Letter 226-J PTC Listing: XF
- ▼ Rate of Pay Safe Harbor often works out best
- ▼ *May* be able to fix issues through ESRP process
- ▼ Work with your **TRUE Network** consultants

Common ACA Reporting Challenges

ALE Group Reporting

- ▶ Evaluate controlled/affiliated employer group status
- ▶ ALE Members – Each employer with its own EIN should file a Form 1094-C marked as the “Authoritative Transmittal”
- ▶ Divisions of an ALE Member – Where an ALE Member has divisions (i.e., separate divisions all have the same EIN), each division MAY (but is not required to) file separate Forms 1094-C
 - ▶ Only ONE Form 1094-C should be marked as the “Authoritative Transmittal” and will include aggregate data for the ALE Member

Conditional Offers of Coverage

- ▼ Codes 1J and 1K address conditional offers of spousal coverage.
- ▼ A conditional offer is an offer of coverage that is subject to one or more reasonable, objective conditions (for example, an offer to cover an employee's spouse only if the spouse is not eligible for coverage under Medicare or a group health plan sponsored by another employer).
- ▼ **Code 1J:** Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage conditionally offered to spouse; **minimum essential coverage not offered to dependent(s).**
- ▼ **Code 1K:** Minimum essential coverage providing minimum value offered to employee; **at least minimum essential coverage offered to dependents;** and at least minimum essential coverage conditionally offered to spouse.

Coding for COBRA

- ▼ COBRA generally only matters (i.e., affects reporting) for employers with self-funded plans
- ▼ Normal Reporting: For full-time employees enrolled in an ALE Member's self-insured coverage, **including an employee who was a full-time employee for at least 1 month of the calendar year**, the ALE Member must complete Form 1095-C, Part II, according to the generally applicable instructions, **and should not enter code 1G on line 14 for any month.**
 - ▼ Loss of Coverage Due to Reduction in Hours (remains employed): Use offer of coverage code and 2C or applicable Line 16 Code
 - ▼ Mid-year terminations: 1H/2A even if offered/enrolled in COBRA.

Coding for COBRA

- ▼ **Special Case for Code 1G – Only for ALEs with Self-funded plans**
 - ▼ **Code 1G: Offer of coverage for at least one month of the calendar year to an individual who was not an employee for any month of the calendar year or to an employee who was not a full-time employee for any month of the calendar year** (which may include one or more months in which the individual was not an employee) and who enrolled in self-insured coverage for one or more months of the calendar year.
 - ▼ *Note. Code 1G applies for the entire year or not at all. Therefore, if code 1G applies, an ALE Member must enter code 1G on line 14 in the “All 12 Months” column or in each separate monthly box (for all 12 months).*

Lessons Learned & Best Practices: **GOLDEN “CODES”**



- ▼ **Code Series 1 & 2**
 - ▼ Code Series 1 (Line 14)
 - ▼ Code Series 2 (Line 16)
- ▼ **Will always have a Series 1 Code**
- ▼ **May not always have a Series 2 Code – but you want one!**
- ▼ **2C is the “*Trump Code*” (only exception is 2E for multiemployer plan interim rule relief)**
- ▼ **Offers of Coverage - All or Nothing Per Month**

Lessons Learned & Best Practices:

GOLDEN “CODES”

Line 16 (Code Series 2) Test

- ▼ You **ALWAYS** want Line 16 to have a response, if possible.
- ▼ Did we offer coverage to the employee?
 - ▼ YES – Did employee enroll?
 - ▼ YES – 2C (employee enrolled)
 - ▼ NO – Use your affordability safe harbor (2F, 2G, or 2H)
 - ▼ NO – Why not?
 - ▼ Not employed – 2A
 - ▼ Not full-time (that month) – 2B*
 - ▼ Limited Non-Assessment Period – 2D
 - ▼ Examples: Waiting Period, Initial Measurement Period, First month of employment

Lessons Learned & Best Practices

- ▶ **REVIEW THE FORMS BEFORE FILING**
 - ▶ **Especially Form 1094-C**
- ▶ **Line 16 – Avoid leaving Line 16 blank if possible**
- ▶ **Line 15**
 - ▶ **Only complete if coverage is offered (but not with 1A)**
- ▶ **Code Combinations - ACA returns with incorrect code combinations increase the possibility that the employer will be subject to an IRS audit because the IRS will be unable to properly process the returns**
- ▶ **Watch out for “strings” attached to Affordability Safe Harbors**
- ▶ **GET STARTED ASAP!!**

Lessons Learned & Best Practices

- ▼ **Expired:** Good Faith Transition Relief
- ▼ Save PDF files
- ▼ Document efforts, responsible employees, service providers
- ▼ Double check ACA reporting service providers
 - ▼ Disclaimers..?
- ▼ Spot check for **Red Flag** code combinations
- ▼ Use “Buckets” for Coding Audit
 - ▼ e.g., status changes, 1H, PTC eligibility
- ▼ Must complete Line 14
- ▼ Best to complete Line 16
- ▼ Form 1094-C – Be sure to mark “Yes” in Line 23, Column A

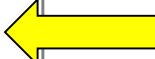
Lessons from Employer Shared Responsibility Assessments

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Form 1094-C (2017)

Page 2

		(a) Minimum Essential Coverage Offer Indicator		(b) Section 4980H Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Reserved
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29	June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30	July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	



Take Action Now

- ▼ Prepare a NOTICE to avoid furnishing Forms 1095-C
 - ▼ Employers provide ***clear, conspicuous, and accessible notice*** to individuals
 - ▼ The IRS has promised to provide guidance when such notice should be provided and in what manner
 - ▼ Good faith effort likely sufficient – consider electronic or posted notice
 - ▼ **IMPORTANT:** No change to filing requirements for Forms 1095-C (or state requirements to furnish employee statements)
- ▼ Check TIN/SSN or use DOB
- ▼ Obtain Consent for Electronic Furnishing
- ▼ Get to work on your ACA Returns!

