CHECKLIST | Complying With the ACA's Pay-or-Play Rules for 2027

Presented by Ellingson Group

The Affordable Care Act (ACA) requires applicable large employers (ALEs) to offer affordable, minimum-value health coverage to their full-time employees (and dependents) or potentially pay a penalty to the IRS. This employer mandate is also known as the "pay-or-play" rules. Small employers who are not ALEs are not subject to the ACA's pay-or-play rules.

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 at least 95% of full-time employees and their dependents;
- Offered health plan coverage to at least 95% of 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 minimum value.

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.

This checklist outlines key steps for employers to comply with the ACA's pay-or-play rules for 2027.

Determining ALE Status

ALEs	Yes	No
Is your company an ALE for 2027? Select "Yes" if your company had, on average, at least 50 full-time employees, including full-time equivalent employees (FTEs) during the preceding calendar year. Follow the three steps outlined below to count your company's full-time employees and FTEs and determine your ALE status. Note that aggregation rules apply to companies under common ownership. All employees of a controlled group or affiliated service group under Internal Revenue Code Sections 414(b), (c) or (m) are considered for determining ALE status. These employers must add together all full-time employees of the aggregated group, including FTEs, to determine the status of the combined group of employers as an ALE. If the combined total meets the ALE threshold, each company is subject to the pay-or-play rules, even those that individually do not employ enough employees to meet the threshold. If you select "No," you can stop here. The ACA's pay-or-play rules only apply to ALEs.	☐	☐

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Steps to Determine ALE Status	Complete
Step 1: Determine how many full-time employees you had in each month of 2026. A full-time employee for any calendar month is one who has, on average, at least **30 hours** of service per week or at least **130 hours** per calendar month.	☐
Step 2: Determine how many FTEs you had in each month of 2026. To do this, combine the number of hours of service of all non-full-time employees for the month and divide that total by 120. Make sure you do not include more than 120 hours of service per employee.	☐
Step 3: For each calendar month, add your full-time employees and FTEs for a monthly total. Add the monthly totals. Divide the sum of the monthly totals by 12. **If the result is 50 or more employees, you are an ALE for 2027.** Note that there are special exceptions for certain types of employees, including seasonal workers and employees with medical coverage under TRICARE or the Department of Veteran Affairs. More information on determining ALE status is available here.	☐

Identifying Full-time Employees

Identifying which employees are full-time employees is central to the ACA's pay-or-play rules. To avoid penalties, ALEs must offer affordable, minimum-value health coverage to their full-time employees. A full-time employee is an employee who has, on average, at least **30 hours** of service per week or at least **130 hours** per calendar month. There are two methods for identifying full-time employees for purposes of offering health coverage: the monthly measurement method and the look-back measurement method.

Available Methods	Look-back Measurement Method	Monthly Measurement Method	Both Methods *(for different groups of employees)*
Which method does your company use to identify full-time employees?	☐	☐	☐

More information: Under the look-back measurement method, an ALE counts an employee's hours of service during one period (called a measurement period) to determine their full-time status for a future period (called a stability period). The details of this method are complex and vary based on whether the employees are ongoing or new and whether new employees are expected to work full time or are variable, seasonal or part-time employees. This method can provide predictability to companies that have employees with varying hours or work schedules.

The monthly measurement method involves a month-to-month analysis, where full-time employees are identified based on their hours of service for each calendar month.

In general, an ALE must use the same measurement method for all employees. However, an ALE may apply either the monthly measurement method or the look-back measurement method to the following groups of employees:

- Each group of collectively bargained employees covered by a separate bargaining agreement;

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- Salaried and hourly employees;
- Employees whose primary places of employment are in different states; and
- Collectively bargained and non-collectively bargained employees.

If your organization has not adopted the look-back measurement method, you should use the monthly measurement method to identify full-time employees.

Offering Health Plan Coverage

Offer of Coverage	Yes	No
Do you offer health plan coverage to "substantially all" of your full-time employees and dependents? An ALE satisfies the requirement to offer health coverage to substantially all of its full-time employees (and dependents) if it offers coverage to **at least 95%—** or fails to offer coverage to no more than 5% (or, if greater, five)—of its full-time employees (and dependents). The alternative margin of five full-time employees is designed to accommodate relatively small ALEs because a failure to offer coverage to a handful of full-time employees might exceed 5% of the ALE's full-time employees. Also, to satisfy this requirement, full-time employees must have the opportunity to enroll in health coverage at least once during the year. Under the ACA's pay-or-play rules, a "dependent" includes only an employee's child under the age of 26. It does not include an employee's spouse. *If you select "No," your organization may be subject to the 4980H(a) penalty if at least one full-time employee receives a premium tax credit for Exchange coverage.*	☐	☐

Penalty amount: The 4980H(a) penalty applies when an ALE does not offer coverage to substantially all full-time employees (and dependents). In this case, the monthly penalty assessed on the ALE is equal to the ALE's number of full-time employees (excluding 30) multiplied by one-twelfth of $2,000 (as adjusted each year). For 2027, the adjusted penalty amount is **$3,780** (up from $3,340 for 2026).

Affordability of Health Plan Coverage

Affordable Coverage	Yes	No
Is the health plan coverage offered to full-time employees affordable? An ALE's health coverage is considered affordable if the employee's required contribution does not exceed 9.5% (as adjusted each year) of the employee's household income for the taxable year. For plan years beginning in 2027, the adjusted affordability percentage is **10.22%** (up from 9.96% for plan years beginning in 2026). The affordability test applies only to the portion of the annual premiums for self-only coverage and does not include any additional cost for family coverage. Also, if an employer offers multiple health coverage options, the	☐	☐

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affordability test applies to the lowest-cost option that provides minimum value. *If you select "No," your organization may be subject to the 4980H(b) penalty if at least one full-time employee receives a premium tax credit for Exchange coverage.*		
Which method(s) is used to determine the health plan's affordability? Because an employer generally will not know an employee's household income, the IRS has provided three optional safe harbors that ALEs may use to determine affordability based on information that is available to them: the Form W-2 safe harbor, the rate of pay safe harbor and the federal poverty level safe harbor. An employer may choose to use one or more of the affordability safe harbors for all its employees or any reasonable category of employees, provided it does so on a uniform and consistent basis for all employees in a category.	Form W-2	☐
	Rate of pay	☐
	Federal poverty level	☐
Penalty amount: The 4980H(b) penalty may apply if an ALE offers coverage to substantially all full-time employees (and dependents) but does not offer coverage to all full-time employees, or if it offers coverage that is unaffordable or does not provide minimum value. The monthly penalty assessed on an ALE for each full-time employee who receives a subsidy is one-twelfth of $3,000 (as adjusted each year) for any applicable month. For 2027, the adjusted penalty amount is **$5,670** (up from $5,010 for 2026). However, the total penalty for an ALE is limited to the 4980H(a) penalty amount.		

Minimum Value of Health Plan Coverage

Minimum Value	Yes	No
Does your health plan provide minimum value (MV)? A health plan provides MV if it covers at least 60% of the total allowed cost of benefits that are expected to be incurred under the plan. In addition, to satisfy the MV requirement, a health plan must include substantial coverage of both inpatient hospital services and physician services. *If you select "No," your organization may be subject to the 4980H(b) penalty if at least one full-time employee receives a premium tax credit for Exchange coverage.*	☐	☐
Which method is used to determine if the health plan provides MV? A third-party administrator (TPA) or insurance carrier can sometimes confirm whether a health plan's design meets MV. Alternatively, an employer can use one of the following methods to determine if its health plan provides MV: • MV Calculator; • **Design-based safe harbors**—If the plan's terms are consistent with or more generous than any one of the IRS'	Determination from TPA or carrier	☐
	MV Calculator	☐
	Design-based safe harbor	☐

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<table>
<tr><td rowspan="2">proposed safe harbor designs (see below), the plan is treated as providing MV;
• Actuarial certification—An employer may seek an actuary's certification to determine the plan's MV if it includes nonstandard features that prevent using the MV Calculator and safe harbors; or
• Metal levels—An insured plan in the small group market that meets any of the "metal levels" of coverage (i.e., bronze, silver, gold or platinum) provides MV.</td><td>Actuarial certification</td><td>☐</td></tr>
<tr><td>Metal level</td><td>☐</td></tr>
<tr><td colspan="3">Penalty amount: The 4980H(b) penalty may apply if an ALE offers coverage to substantially all full-time employees (and dependents) but does not offer coverage to all full-time employees, or if it offers coverage that 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 each year) for any applicable month. For 2027, the adjusted penalty amount is $5,670 (up from $5,010 for 2026). However, the total penalty for an ALE is limited to the 4980H(a) penalty amount.</td></tr>
<tr><td colspan="3">Safe Harbor Designs: The IRS proposed the following plan designs as safe harbors for determining MV if the plan covers all the benefits included in the MV Calculator:
• A plan with a $3,500 integrated medical and drug deductible, 80% plan cost sharing and a $6,000 maximum out-of-pocket limit;
• A plan with a $4,500 integrated medical and drug deductible, 70% plan cost sharing, a $6,400 maximum out-of-pocket limit and a $500 employer contribution to a health savings account; and
• A plan with a $3,500 medical deductible; zero-dollar drug deductible; 60% plan medical expense cost sharing; 75% plan drug cost-sharing; a $6,400 maximum out-of-pocket limit; and drug copays of $10/$20/$50 for the first, second and third prescription drug tiers, with 75% coinsurance for specialty drugs.</td></tr>
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Maintaining Documentation

Documentation	Complete
ALEs should maintain documents supporting their compliance with the ACA's pay-or-play rules in the event an employee receives a premium tax credit and the IRS issues a Letter 226-J. ALEs should maintain documentation of: • Employee hours (including the application of the look-back measurement method, if appliable) used to determine full-time status; • Offers of health plan coverage (and, for employees who decline health coverage, documentation showing they declined coverage); • The health plan's affordability determination; • The health plan's MV determination; and • Forms 1094-C and 1095-C filed with the IRS.	☐

Use this checklist as a guide when reviewing your company's compliance with the ACA's pay-or-play rules for 2027. For assistance, contact Ellingson Group.

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