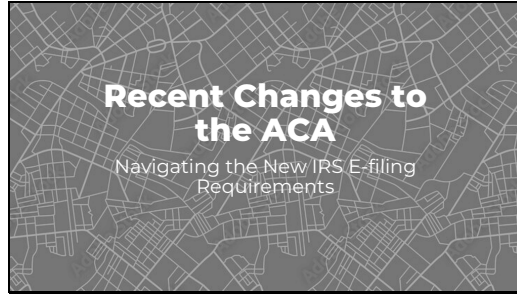


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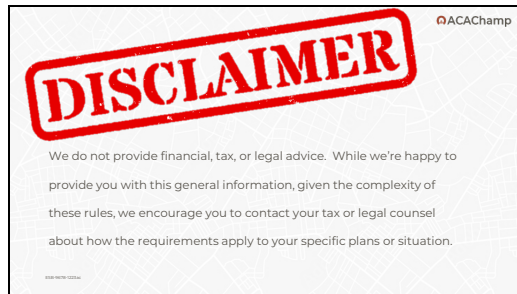
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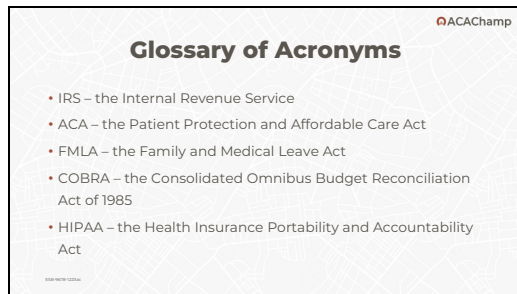
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Slide 3



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Slide 4

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## Agenda

1. ACA Basics: What you need to know
2. **NEW** 2023 electronic filing requirements
3. Electronic Filing of ACA Forms
4. Avoiding IRS Penalties

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Slide 5

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## Polling Question

How would you rate your understanding of the Affordable Care Act (ACA) Employer Mandate and the associated IRS filing requirements?

1. Little to no knowledge
2. Some knowledge
3. Extremely knowledgeable

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Slide 6

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# ACA Fundamentals

A Look At The Basics

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Slide 7

**Benefit Eligibility vs Employer Mandate** ACAChamp

Minimum value ("Dingler")  
Offer to all employees

Offer benefits based on full-time equivalency (FTE)

Contract, position, or bargaining unit

Offer to all, but pro-rata employer contribution

Something completely different

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Slide 8

**Employer Mandate Penalty** ACAChamp

Coverage not offered to 95% of full-time employees and their dependent children up to age 26

**OR**

Coverage offered is "unaffordable" or "inadequate"

**and**

Full-time employee enrolls in Marketplace coverage and receives advance premium tax credit

Full-time employee enrolls in Marketplace coverage and receives advance premium tax credit

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Slide 9

**Full-time Employees** ACAChamp

- Average of 30+ hours/week or 130+ hours/month
- Average includes non-work time for which pay is due
- Optional lookback measurement and stability periods can be used to determine full-time status
- Special treatment of newly-hired variable hour, part-time, or seasonal employees under the lookback method

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### Penalty "A"

- Must offer coverage to 95% or more of full-time employees
- Full-time as defined by ACA rules
- 5% margin of error (these employees can still trigger Penalty "B")

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### Penalty "A"

Full Time Employees	2023 Potential Penalty "A" Annually
100	\$201,600
250	\$633,600
500	<b>\$1,353,600</b>
1,000	\$2,793,600
1,500	\$4,233,600

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### Penalty "B"

If 95% target is met but coverage is inadequate or unaffordable:

- 1/12th x \$3,000 per month, per full-time employee who receives an advance premium tax credit
- Also indexed annually
  - 2020: \$3,860
  - 2021: \$4,060
  - 2022: \$4,120
  - 2023: \$4,320

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### Penalty "B"

Employees that triggered penalty.	2023 Potential Penalty "B" Annually
5	\$21,600
10	\$43,200
15	<b>\$64,800</b>
20	\$86,400
25	\$108,000

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Slide 14

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### IRS Reporting Penalties

- Applicable Large Employers must file Forms 1094-C and 1095-C each year
- Form 1095-C is furnished to the employee as well as the IRS
  - Identifies the employee's full- or part-time status for each month
  - Identifies if the employer offered coverage to the employee
  - Identifies if the employee was enrolled in the coverage
  - Specifies codes for different situations
- Changes in employee status and/or changes in offers of coverage or employee cost will result in different applicable codes

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### IRS Reporting Penalties

- Employers with fewer than 50 full time equivalent employees may still be required to file with IRS
  - Sponsors of a self funded medical plan are required to file Form 1094-B and Forms 1095-B for individuals enrolled in the plan at any time during tax year

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### IRS Reporting Penalties

Year Due	Up to 30 Days Late	31 Days Late Through August 1	After August 1 or Not Filed	Intentional Disregard
2024	\$60	\$120	\$310	\$630
2023	\$50	\$110	\$290	\$580
2022	\$50	\$110	\$280	\$570
2021	\$50	\$110	\$280	\$560
2020	\$50	\$110	\$270	\$550

<https://www.irs.gov/payments/information-return-penalties>

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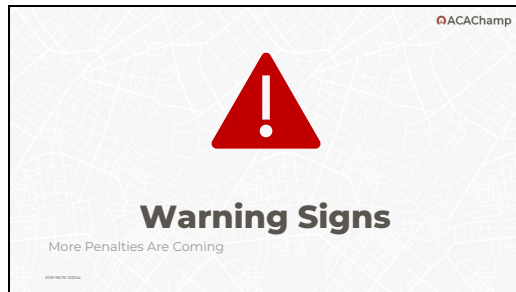
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### No Statute of Limitations

**ISSUE**

Whether the Employer Shared Responsibility Payment imposed by section 4980H<sup>1</sup> is subject to any statute of limitations on assessment?

**SUMMARY CONCLUSION**

No, there is no applicable statute of limitations on assessment because there is no tax return filed to report an employer's liability for the ESRP.

<https://www.irs.gov/pub/irs-lafa/20200801f.pdf>

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### No Good Faith Effort Relief

- From 2015-2020, IRS offered relief for inaccurate filing if employer demonstrated a good faith effort.
- IRS announced that this relief would not be extended after the 2020 tax year filing period.

*"...the good faith relief offered beginning in calendar year 2015 was intended to be transitional to accommodate public concerns with implementing the new reporting requirements under the ACA. These reporting requirements have now been in place for seven years, and transitional relief is no longer appropriate."*

<https://www.govinfo.gov/content/pkg/FR-2022-12-15/pdf/2022-27212.pdf>

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Slide 20



### Increasing Enforcement

- \$14.1 billion in regular appropriations (plus \$80 billion from IRA)
- IT enhancements
- 10,000 new hires, now available to perform ACA audits
- Making good on 2020 charge to improve ESRP assessments
- Charged with identifying ACA non-compliance

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### What does this mean?

IRS consistently improving its ACA enforcement efforts

Very little margin of error for employers to make mistakes

- No more "good faith" relief for reporting mistakes
- No statute of limitations for Employer Shared Responsibility Payment (ESRP) penalties
- New electronic filing requirements can create additional complexity to file.

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### Polling Question

Were you aware of the updated IRS electronic filing requirements for tax year 2023 before today?

1. Yes
2. No

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## New Electronic Filing Requirements for 2023 Tax Year

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### Electronic Filing of ACA Forms

- Previously required for 250 or more forms
- Now required for employers filing 10 or more total forms, including Forms W-2
- Challenging for smaller employers with limited resources

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### Electronic Filing of ACA Forms

Benefits:

- Helps build defense against Letter 5699, notice from IRS that you did not prepare/file your ACA information for a particular tax year.
- Gives more time to review and update data since electronic filing due date is later than the paper filing due date.

www.irs.gov

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### Electronic Filing of ACA Forms

www.irs.gov

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### Setup

- Register to use IRS e-Services Tools and apply for your ACA Application for TCC (Transmitter Control Code)
  - Time consuming to fill out and receive confirmation of status
  - Could take up to 45 days to receive TCC
  - Valid for one year; reapplying each year is required
  - Minimum of two Responsible Officials
- Register with the AIR Transmission Program
  - <https://www.irs.gov/pub/irs-pdf/p5258.pdf> (Air Submission Guide; 160+ pages!)

www.irs.gov

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### Setup

- Pass all applicable test scenarios
  - Pass Affordable Care Act Assurance Testing System (AATS)
  - Must use approved software to perform communications test
  - Have applicable systems to be able to write in XML for the ACK file
- All this before you can even consider transmitting to the IRS!

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### Setup

The following guides/documents provide additional guidance for electronic filing through AIR:

- [Publication 5165](#), Guide for Electronically Filing Affordable Care Act (ACA) Information Returns for Software Developers and Transmitters
- [Publication 5308](#), Automated Enrollment for ACA Providers, "The External Guide"
- [Publication 5258](#), Affordable Care Act (ACA) Information Returns (AIR) Submission Composition and Reference Guide

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### Setup

Some of the AIR web page references available on IRS.gov are:

- Affordable Care Act Information Returns (AIR) Program
- Affordable Care Act Information Returns Schemas and Business Rules
- Affordable Care Act Assurance Testing System (AATS) Information Returns

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**Form 1095-C** Employee-Provided Health Insurance Offer and Coverage

OMB No. 1545-0047  
2015-07-23

**Employee** (Applicable to Large Employer-Mandatory Employees)

Employee Year of Coverage: 2023  
Employee's Age on January 1: [Blank]  
Plan Start Month (must be 1st of month): [Blank]

Line 1	Employee's Age on January 1																					
	10 (1/1/23)	11 (2/1/23)	12 (3/1/23)	13 (4/1/23)	14 (5/1/23)	15 (6/1/23)	16 (7/1/23)	17 (8/1/23)	18 (9/1/23)	19 (10/1/23)	20 (11/1/23)	21 (12/1/23)										
IA (Offered under FPL, includes spouse and dependents)																						
IB (Offered to employee only)																						
IC (Offered to employee and dependents only)																						
ID (Offered to employee and spouse)																						
IE (Offered to employee, spouse, and dependents)																						
IF (Offered to any combination of employee, spouse, dependents; does not meet minimum value)																						
IG (Offered to individual who was not a full-time employee for any month of the calendar year who enrolled in self-insured coverage)																						
IH (No offer of coverage)																						
II (Reserved for future use)																						
IJ (Offered to employee, conditionally offered to spouse, not offered to dependents)																						
IK (Offered to employee and dependents, conditionally offered to spouse)																						

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Line 14 Code Description of Code

- IA Affordable under FPL, includes spouse and dependents
- IB Offered to employee only (not offered to spouse or dependents)
- IC Offered to employee and dependents only (not offered to spouse)
- ID Offered to employee and spouse (not offered to dependents)
- IE Offered to employee, spouse, and dependents
- IF Offered to any combination of employee, spouse, dependents; does not meet minimum value
- IG Offered to individual who was not a full-time employee for any month of the calendar year who enrolled in self-insured coverage (must be reported all 12 months)
- IH No offer of coverage
- II Reserved for future use – do not use in 2023 reporting
- IJ Offered to employee, conditionally offered to spouse, not offered to dependents
- IK Offered to employee and dependents, conditionally offered to spouse

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Line 14 Code Description of Code

- IL Offer of ICHRA to employee only, affordability based on primary residence
- IM Offer of ICHRA to employee and dependents only (not spouse), affordability based on primary residence
- IN Offer of ICHRA to employee, spouse and dependents, affordability based on primary residence
- IO Offer of ICHRA to employee only, affordability based on primary employment site
- IP Offer of ICHRA to employee and dependents only (not spouse), affordability based on primary employment site
- IQ Offer of ICHRA to employee, spouse, and dependents, affordability based on primary employment site
- IR Offer of ICHRA to any combination of employee, spouse, and dependents, **not affordable**
- IS Offer of ICHRA to an individual who was not a full-time employee
- IT Offer of ICHRA to employee and spouse only (not dependents), affordability based on primary residence
- IU Offer of ICHRA to employee and spouse only (not dependents), affordability based on primary employment site

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Line 16 Code	Description of Code
2A	Not employed on any day of the calendar month
2B	Not full-time and not enrolled in coverage during the month
2C	Enrolled in the health coverage offered
2D	Limited Non-assessment Period (permissible waiting period or initial measurement period)
2E	Multi-employer interim rule relief
2F	Waived coverage met Form W-2 affordability safe harbor
2G	Waived coverage met Federal Poverty Level affordability safe harbor
2H	Waived coverage met Rate of Pay affordability safe harbor
2I	Reserved for future use

FORM 1094-C (2014)

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### Form 1094-C

Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

FORM 1094-C (2014)

Use this form to report information for the calendar year ending 12/31/2014.

For Official Use Only

Form 1094-C is used to report information for the calendar year ending 12/31/2014.

For Official Use Only

FORM 1094-C (2014)

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### Form 1095-B

Health Coverage

FORM 1095-B (2014)

Use this form to report information for the calendar year ending 12/31/2014.

For Official Use Only

Form 1095-B is used to report information for the calendar year ending 12/31/2014.

For Official Use Only

FORM 1095-B (2014)

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### Electronic Filing of ACA Forms

Example of electronic filing gone wrong!

School district employee responsible for filing ACA with IRS leaves district. District has around 1,500 ACA forms!

- IRS Letter 5699, notice from IRS that you did not prepare/file your ACA information for tax years 2017, 2018 and 2019! Employee responsible no longer with district
- Total estimated penalty risk = \$1,135,700! Plus Interest!

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### Electronic Filing of ACA Forms

- Potential Penalty of \$310 per return for failure to file electronically.
- The electronic filing requirement does not apply if you request and receive a hardship waiver.
  - Encouraged to file 45 days before the due date of the returns

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### Polling Question

Have you ever completed or assisted in the completion of a response to an IRS penalty letter regarding the ACA Employer Mandate or ACA filing requirements?

1. Yes
2. No

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### Due Dates to Remember

**Distribution of forms to Employees**

- **March 1, 2024**
  - An ALE member must furnish a Form 1095-C to each of its full-time employees.
  - Employers with less than 50 FTE who sponsor a self-funded medical plan must make Form 1095-B available to any enrolled individual

**Filing to IRS:**

- **February 28, 2024**
  - Paper Filing (if under 10 forms or if hardship waiver granted)
- **April 1, 2024**
  - Electronic Filing
  - Form 8809 – 30 day extension to file electronically

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### Electronic Filing of ACA Forms

Is it too late to setup filing electronically?

- Setup is time consuming. If setting up for the first time you should have everything ready to begin testing in November!
- Options include:
  - Request Waiver 8508 to see if you or your client qualify.
  - Partner with a vendor that can provide you and your clients the ease of completing the ACA reporting, including:
    - 1095-C forms for distribution to Employees
    - Transmission to IRS not only for original transmission but also for any necessary corrections.

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### Polling Question

Would you be interested in learning more about a software solution to handle ACA Employer Mandate reporting, including filing electronically with IRS?

1. Yes
2. No
3. Not sure

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There's no escaping ACA reporting. But we can help. For more information about the topics we discussed today, or to receive a demo of our purpose-built ACA software, visit [acachamp.com/demo](http://acachamp.com/demo).

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### Questions?

Thank you!  
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405-523-5312  
[ACACHamp.com](http://ACACHamp.com)

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