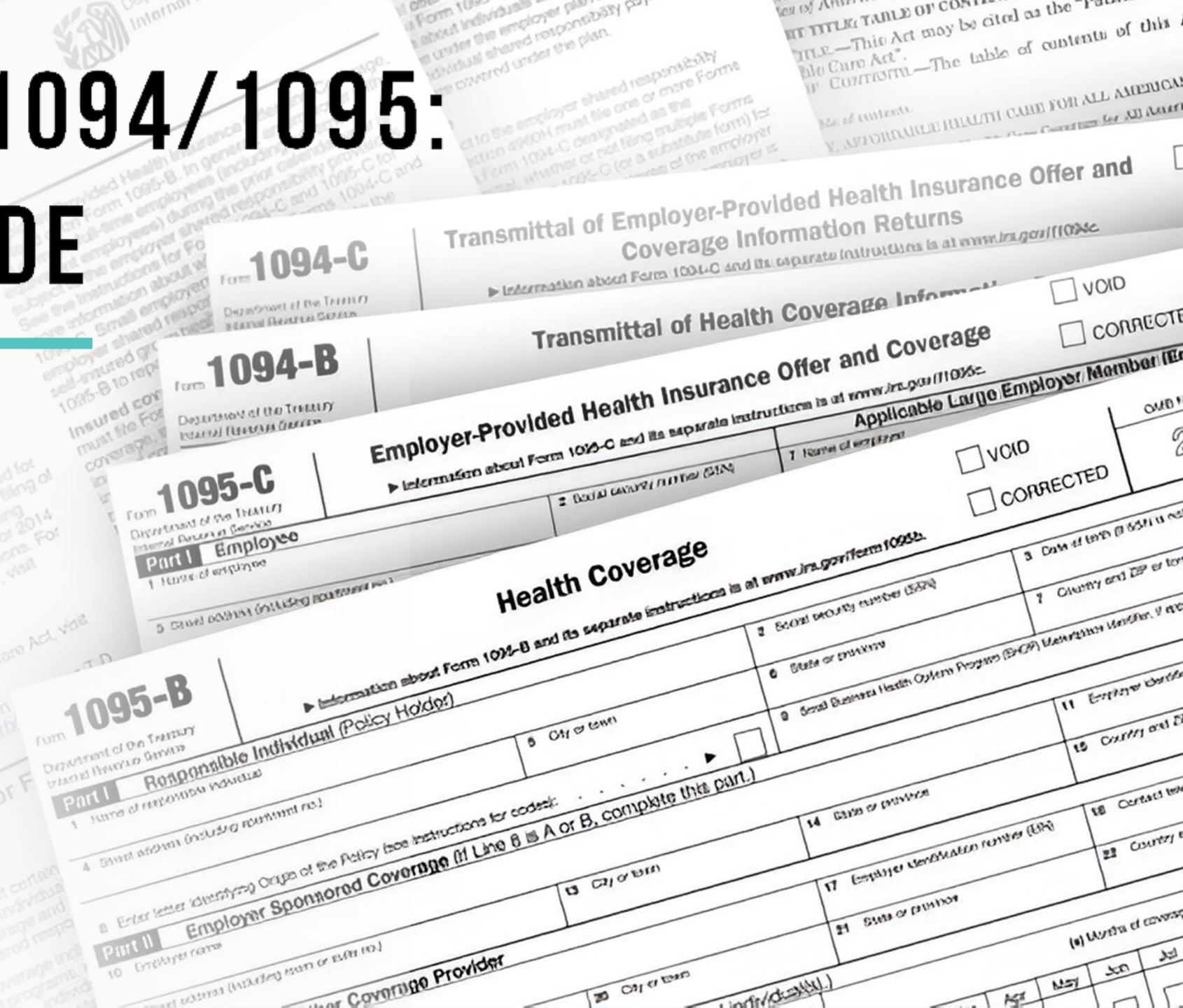
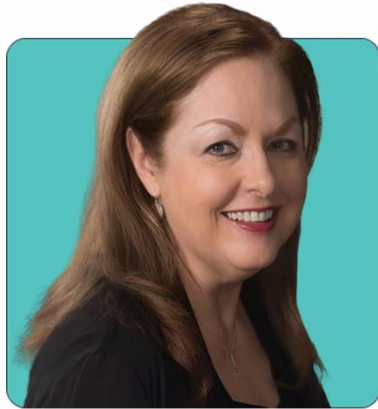


2023 FORMS 1094/1095: A HOW-TO GUIDE

Thursday,
January 18, 2024
1 p.m. (PT)



PRESENTERS



Janet Trautwein

Compliance and Government
Affairs Executive



Marilyn Monahan

Monahan Law Office
Owner



OMB No. 1545-2251

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

OMB No. 1545-2251
2023

Form **1094-C**
Department of the Treasury
Internal Revenue Service

Transmittal of E

Go to www.irs.gov

Part I Applicable Large Employer Member

1 Name of ALE Member (Employer)

3 Street address (including room or suite no.)

4 City or town

7 Name of person to contact

9 Name of Designated Government Entity (only if applicable)

11 Street address (including room or suite no.)

12 City or town

15 Name of person to contact

Part II Employee

1 Name of employee (first name, middle initial, last name)

2 Social security number (SSN)

3 Street address (including apartment no.)

4 City or town

5 State or province

6 Country and ZIP or foreign postal code

7 Name of employer

8 Employer identification number (EIN)

9 Street address (including room or suite no.)

10 Contact telephone number

11 City or town

12 State or province

13 Country and ZIP or foreign postal code

Part II Employee Offer of Coverage

14 Offer of Coverage (enter required code)	All 12 Months	Employee's Age on January 1														
		Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec			
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)																

17 ZIP Code

Plan Start Month (enter 2-digit number):

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 60705M

Form **1095-C** (2023)

2023 Forms 1094/1095: A How-To Guide

January 18, 2024

Marilyn A. Monahan, Monahan Law Office



Agenda

- The ACA § 4980H Employer Shared Responsibility Penalties
 - Who Must Comply?
 - The § 4980H Penalties
 - Affordability
- 2023 Forms 1094/1095 Reporting
 - Filling Out the Forms
 - State Filing Mandates
- Next Steps
 - 226J Letters and More
- Resources and Questions



The ACA § 4980H Shared Responsibility Penalties: Who Must Comply?

- **“Applicable large employers”** (ALEs) must:
 - Offer at least 95% of their full-time employees “minimum essential coverage” (MEC) that is also “minimum value” (MV) and “affordable” to avoid a § 4980H(a) or (b) penalty, and
 - Furnish to employees, and file with the IRS, Forms 1094/1095-C
- **Important:**
 - Even ALEs that do not offer coverage must furnish/file the Forms 1094/1095-C
 - This is an employer — not a carrier — responsibility (the carriers will furnish/file Forms 1094/1095-B, but these forms do not take the place of the Forms 1094/1095-C)
 - Small employers (non-ALEs) that self-fund (such as those with a level funded plan) must furnish/file the Forms 1094/1095-B



Who Is an ALE?

- An “applicable large employer” (**ALE**) is an employer with an average of **50** or more full-time employees, including full-time equivalent employees, during the **preceding** calendar year
 - Who is a full-time (FT) employee? **30** hours per week
 - Do you include part-time employees? Yes – “full-time equivalent” (FTE)
 - Add all the hours worked per month by part-time (PT) employees (but not more than 120 hours per employee) and divide by 120 (= FTE)
 - Special rules apply to “seasonal workers”
 - **Process:** For each calendar month, determine number of FTEs. Then, add your FT and FTE employees for a monthly total (FT + FTE). 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 (example over).
- **Resources:** IRS Publications 5208 and 5200, and IRS FAQs (“Determining if an Employer is an Applicable Large Employer”)

Who Is an ALE? — Example

- Alpha Corp. employs 25 FT employees each month (each work 30 hours/week)
- Alpha employs 40 PT employees (who average 90 hours/month):
 - $40 \times 90 = 3,600$; $3,600 \div 120 = 30$ (Alpha has 30 FTE employees each month)
 - $25 \text{ FT} + 30 \text{ FTE} = 55$ employees/month
- Add the monthly totals and divide by 12:
 - $55 \times 12 = 660$; $660 \div 12 = 55$
- An employer with 50 or more employees is an ALE

- **Note:** Status could change each year; watch for changes in employee population and mergers and acquisitions
- **Note:** Aggregated (control) group rules apply (add together employees of all entities within aggregated group to determine if they are separately treated as ALEs)
- **Note:** In California (CO, NY, VT), ALEs may qualify for small group coverage if they have between 50 and 100 employees — but they are still ALEs

The § 4980H Employer Shared Responsibility Penalties



The § 4980H Penalties: Overview

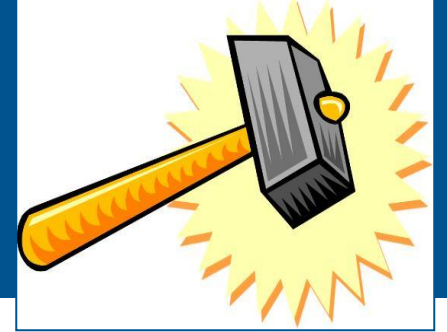
- To avoid the § 4980H(a) and (b) penalties, the ALE member must offer “**minimum essential coverage**” (**MEC**) to at least 95% of its full-time employees and their dependent children (not spouses); coverage must also be “**affordable**” and of “**minimum value**” (**MV**) to avoid a § 4980H(b) penalty (more to follow)
- **Full-Time (FT) Employees:** An employee who is employed an average of 30 hours of service per week
 - Do not have to offer coverage to part-time employees
 - Do not have to offer coverage during “**limited non-assessment periods**” (**LNPs**), such as a waiting period (no longer than 90 days) or initial measurement period
- **Note:** If coverage not offered for any day of a calendar month, it is treated as if no coverage offered for entire month
- **Compliance Tip:** SBC states whether plan is MEC & MV

ACA § 4980H Compliance: The Numbers

ACA § 4980H COMPLIANCE	2024	2023	2022
ACA Affordability Percentage	8.39%	9.12%	9.61%
Section 4980H(a) Penalty	\$2,970	\$2,880	\$2,750
Section 4980(b) Penalty	\$4,460	\$4,320	\$4,120
Failure to Furnish/File Penalty - IRS	\$310	\$290	\$280
Failure to File Penalty - FTB	\$50	\$50	\$50
CA Minimum Wage*	\$16.00	\$15.50	\$15
Federal Poverty Level (48 states/DC)	TBD	\$14,580	\$13,590

*May differ in other states or municipalities

Penalties: § 4980H(a)



- If the employer does **not** offer **MEC** to at least **95%** of its FT employees (and their dependent children),
- And at least 1 FT employee enrolls in an individual plan through a Marketplace (such as Covered CA) and receives a “premium tax credit” (PTC or APTC),
- Then the employer will be assessed an (a) penalty:
 - For **2024**, penalty is **\$2,970** per year (\$247.50/month) per FT employee, but do not count first 30 FT employees
 - **2024 Example:** In 2024, ALE with 200 FT employees does not offer MEC coverage to at least 95% of its FT employees, and 1 employee receives a PTC. $200 \text{ FT} - 30 = 170$; $170 \times \$2,970 = \$504,900$ penalty
- **Important:** Employers within an aggregated group share the 30-employee deduction
- **Important:** Do not forget offers to new and ongoing variable, part-time and seasonal as required by the look-back measurement method (LBMM), if applicable
- **Important:** Eligible employees must have an effective opportunity to elect to enroll in coverage (or decline to enroll) at least once with respect to the plan year
- **Important:** Maintain records!

Penalties: § 4980H(b)

- If employer offers enrollment in **MEC** to at least **95%** of its FT employees (and their dependent children),
- But the value of coverage is not “**minimum value**” (**MV**) or is not “**affordable**” (so that an individual qualifies for a premium tax credit (PTC or APTC)), and
- At least one FT employee enrolls in an individual plan through a Marketplace (such as Covered CA), and receives a PTC or APTC,
- Then the employer will be penalized:
 - For **2024**, the lesser of \$2,970 per FT employee (less 30 FT employees) or **\$4,460** (\$371.67/month) per FT employee receiving PTC
 - **2024 Example**: In 2024, ALE offers MEC coverage to 95% of its FT employees, but coverage is **not affordable**; 5 FT employees receive PTC; 2024 penalty is \$22,300 (\$4,460 x 5)

Affordable

- **Affordable Coverage:** Employer coverage is **not affordable** if *employee contribution* toward *self-only premium* for the employer's *lowest-cost plan* that provides "**minimum value**" (**MV**) exceeds 9.5% of "*household income*"—
 - **Affordability Percentage:** 9.12% for 2023, 8.39% for 2024
- **Safe Harbors:** ALE may determine affordability based on one of the three **safe harbor** methods:
 - **W-2, rate of pay, federal poverty line (FPL)** (more over)
- **Action Item:** Recalculate affordability (employee self-only contributions) each year — these variables, in addition to premium, adjust each year:
 - Affordability percentage adjusts each year (see above)
 - Rate of pay could change with changes in minimum wage
 - CA 2023: **\$15.50/hr** — **Important:** May be higher in some municipalities
 - CA 2024: **\$16.00/hr** — **Important:** May be higher in some municipalities
 - FPL will adjust each year — **Important:** May use FPL in effect six months prior to plan year start
 - 2023 FPL is **\$14,580** for continental U.S., one-person home (use for calendar year plans)
 - 2024 FPL will be announced in January 2024

Safe Harbor Examples (2023)

W-2

- Box 1 wages: \$32,240 (\$15.50/hour, 40 hours/week)
- $\$32,240 \div 12 = \$2,686.67$
- $\$2,686.67 \times .0912 = \mathbf{\$245.02}$

Rate of Pay

- Based on a formula, not actual hours worked
- $\$15.50 \times 130 = \$2,015$; $\$2,015 \times .0912 = \mathbf{\$183.79}$
- $\$7.25 \times 130 = \942.50 ; $\$942.50 \times .0912 = \mathbf{\$85.96}$

FPL

- 2022 FPL: $\$13,590$; $\$13,590 \div 12 = \$1,132.50$; $\$1,132.50 \times .0912 = \mathbf{\$103.28}$
- 2023 FPL: $\$14,580$; $\$14,580 \div 12 = \$1,215$; $\$1,215 \times .0912 = \mathbf{\$110.81}$

Safe Harbor Examples (2024)

W-2

- Box 1 wages: \$33,280 (\$16/hour, 40 hours/week)
- $\$33,280 \div 12 = \$2,773$
- $\$2,773 \times .0839 = \mathbf{\$232.66}$

Rate of
Pay

- Based on a formula, not actual hours worked
- $\$16 \times 130 = \$2,080$; $\$2,080 \times .0839 = \mathbf{\$174.51}$
- $\$7.25 \times 130 = \942.50 ; $\$942.50 \times .0839 = \mathbf{\$79.08}$

FPL

- 2023 FPL: \$14,580; $\$14,580 \div 12 = \$1,215$; $\$1,215 \times .0839 = \mathbf{\$101.94}$

Affordability: More Details

- **When calculating affordability, do you take into account the cost to buy up to a more expensive plan?** No
- **When calculating affordability, do you take into account the cost of dependent coverage?** No (Marketplace will consider it — since change in “Family Glitch” — but not part of affordability)
- **Do I have to apply the same affordability safe harbor to everyone?** No — if an ALE chooses to use the safe harbors — and they are not mandatory — the ALE can choose to apply them to a “reasonable category of employees, provided it does so on a uniform and consistent basis for all employees in a category.” Reasonable categories generally include:
 - Specified job categories, nature of compensation (hourly or salary), geographic location, and similar bona fide business criteria
 - An enumeration of employees by name — or other specific criteria having substantially the same effect — is not considered a reasonable category
- **Other Factors that Affect Affordability:** Other factors that can impact affordability calculations include certain HRA contributions, certain cafeteria plan contributions, or opt-out (cash in lieu) payments (over); special rules also apply to **ICHRAs**

IRS Forms 1094/1095: Deadlines and Updates

Form **1094-C**

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

Information about Form 1094-C and its separate instructions is at [redacted]

Part I Applicable

1 Name of ALE Member (Employer name)

2 Employer identification number

3 Street address (including room or suite no.)

4 City or town

5 State or province

7 Name of person to contact

8 Contact information

9 Name of Designated Government Entity (if applicable)

10 Contact information

11 Street address (including room or suite no.)

12 City or town

13 State or province

14 Name of person to contact

Why It Matters

- The IRS needs to know:
 1. Prior to 2019, whether individuals have health coverage (if not, they had to pay an individual shared responsibility penalty) (now, it matters in states with individual coverage mandate)
 2. Whether individuals who obtained coverage from the Marketplace (Covered CA) are entitled to a subsidy (or premium tax credit (PTC or APTC))
 3. Whether ALE members owe an employer shared responsibility penalty (§ 4980H(a) or (b))
- These forms provide the data needed to make these determinations
- The forms which have to be prepared, furnished, and filed:
 - **Form 1094-C** (transmittal) (typically, one form per employer)
 - **Form 1095-C** (employee statement) (typically, one for each FT employee)
- **Note:** Even ALEs that do not offer coverage must furnish and file the forms

ACA Reporting: New Rules

- **First:** No good faith penalty relief if forms are furnished and filed on time but are incorrect or incomplete; penalty is \$310/form (adjusted annually)
- **Second:** Automatic 30-day extension to furnish the Forms 1095-C in perpetuity; no further extensions will be granted
- **Third:** Automatic 30-day extension to furnish the Forms 1095-B in perpetuity; no further extensions will be granted
- **Fourth:** Alternative distribution method for Forms 1095-B — posting information on website (following the rules) and then providing a copy within 30 days
- **Action Items for Employers:** Because no more good faith penalty relief, the time is right to make certain you are filling out the forms correctly; re-assess your processes; review your vendor contracts

ACA Reporting: More New Rules

- **IRS Electronic-Filing Requirements — Final Rule:** On February 21, 2023, the IRS issued a Final Rule on electronic filing requirements — for forms filed in 2024, **must** file with the IRS electronically if filing **10** or more forms
 - All ALEs will have to file electronically, and this may require changes in formatting — consider hiring a vendor to prepare or file or both, as necessary
- **Aggregation:** Also, employers will have to add various forms together (1095s, W-2s, etc.) to determine if the threshold is met
- **Corrected Returns:** Corrected returns must be filed in the same manner as the original filing
- **Action Items for Employers:** Prepare for, or work with, vendors to set up for e-filing

Forms 1094/1095: Deadlines for 2023 Forms

Employer Obligation	Due Dates
Furnishing 1095-Cs to Employees	March 1, 2024 (2024 is a leap year) No further extensions granted
Filing 1094-C and 1095-Cs with the IRS (on paper)	February 28, 2024 (But, remember new rules on electronic filing)
Filing 1094-C and 1095-Cs with the IRS (electronically)	April 1, 2024 (March 31 is a Sunday)

- Employers may file a Form 8809 to obtain a 30-day extension to file the forms with IRS.
- Small employers that self-fund must file and furnish Forms 1094-B and 1095-B.

- These deadlines also apply to the Forms 1095-B from insurers/HMOs.

Employer IRS Filing Requirements

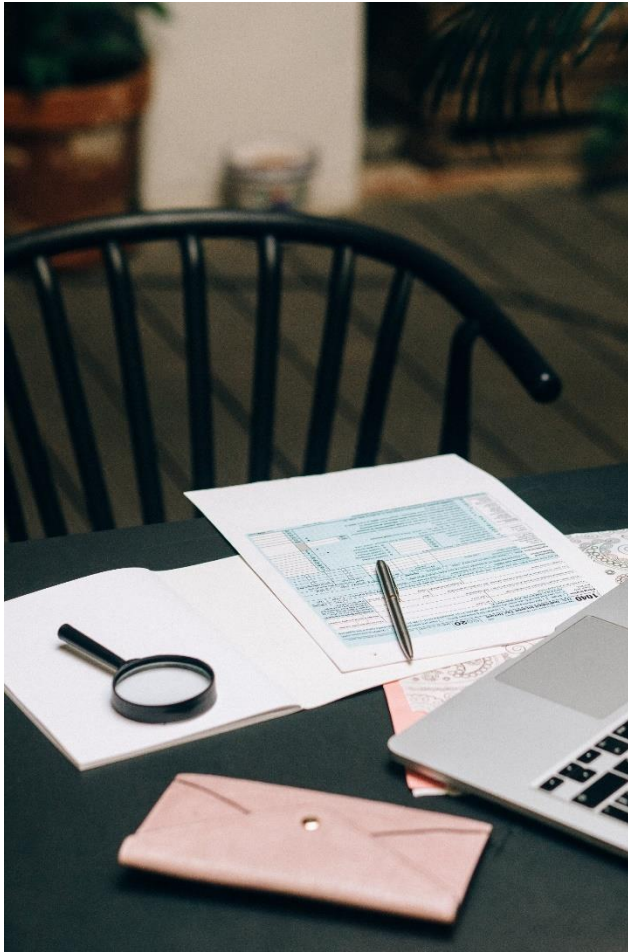
	Insured Health Plan	Self-Insured Health Plan
Small Employer (Fewer than 50 FTE employees)	<ul style="list-style-type: none">● Employer does <u>not</u> file 1094-C or 1095-C● Insurer files 1095-B	<ul style="list-style-type: none">● Employer files 1094-B and 1095-B
Applicable Large Employer (ALE) (50 to 99 FTE employees)	<ul style="list-style-type: none">● Employer files 1094-C and 1095-C (completes Parts I and II)● Insurer files 1095-B	<ul style="list-style-type: none">● Employer files 1094-C and 1095-C (completes Parts I, II, and III)
Applicable Large Employer (ALE) (100 or more FTE employees)	<ul style="list-style-type: none">● Employer files 1094-C and 1095-C (completes Parts I and II)● Insurer files 1095-B	<ul style="list-style-type: none">● Employer files 1094-C and 1095-C (completes Parts I, II, and III)

California Minimum Essential Coverage Individual Mandate (S.B. 78)

- The federal Tax Cuts & Jobs Act reduced the ACA's individual shared responsibility penalty to zero, effective **12/31/18**; effective **1/1/20**, Californians must have MEC or pay penalty to **FTB**
- **Reporting:** S.B. 78 contains a reporting requirement (\$50/form penalty):
 - Employers must distribute Forms 1095 to employees; employers must file w/ FTB Forms 1095, unless carrier files (so, self-funded employers must comply); if filing electronically, **register** w/ MEC IR system
 - Other jurisdictions with individual mandates: DC, NJ, MA, RI, VT
 - **Resources:** FTB website; Publications 3895B and 3895C

Insurer/Employer Obligation	FTB Due Dates
Furnishing Forms 1095-B/C to Employees	January 31, 2024
Filing Forms 1094/1095-B/C with the FTB (electronic filing required if filing ≥250 1095-Cs)	March 31, 2024 (deadline extended to May 31)

How to Complete the Forms



How to Complete the Forms: Scenario 1

- Acme Consulting, Inc. has 120 FT employees at beginning of 2023 and 20 PT employees
- Calendar year plan (Jan. 1 – Dec. 31)
- Acme offers MEC coverage to all FT employees, spouses & dependents
 - So, MEC coverage offered to at least 95% of FT employees and dependent children
- Coverage is fully insured, MV and “affordable”
 - \$100/mo. for self-only coverage for the lowest cost plan (FPL)
- John Q. Participant was hired as a FT employee (\$15.50/hr) and started work on 2/1/23
- Because of a waiting period, John was offered coverage, and he enrolled the first of the month after his hire date (3/1); he also enrolled his wife (Susan) and daughter (Emma)
- Acme had no other terminations or new hires during the year
- Acme is not part of an aggregated (control) group

Form **1094-C**

Department of the Treasury
Internal Revenue Service

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

Go to www.irs.gov/Form1094C for instructions and the latest information.

CORRECTED

OMB No. 1545-2251

2023

Part I Applicable Large Employer Member (ALE Member)

1 Name of ALE Member (Employer) Acme Consulting, Inc.		2 Employer identification number (EIN) 55-5555555	
3 Street address (including room or suite no.) 123 Pacific Avenue			
4 City or town Marina del Rey	5 State or province CA	6 Country and ZIP or foreign postal code USA 90292	
7 Name of person to contact Robert Smith		8 Contact telephone number 555-555-5555	
9 Name of Designated Government Entity (only if applicable)		10 Employer identification number (EIN)	
11 Street address (including room or suite no.)			
12 City or town	13 State or province	14 Country and ZIP or foreign postal code	
15 Name of person to contact		16 Contact telephone number	

For Official Use Only



17 Reserved

18 Total number of Forms 1095-C submitted with this transmittal 121

19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions

Part II ALE Member Information

20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member 121

21 Is ALE Member a member of an Aggregated ALE Group? Yes No

If "No," do not complete Part IV.

22 Certifications of Eligibility (select all that apply):

- A. Qualifying Offer Method
- B. Reserved
- C. Reserved
- D. 98% Offer Method

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature

CFO
Title

Date

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 61571A

Form **1094-C** (2023)



Part III ALE Member Information – Monthly

	(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 checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>	120	140	
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>	120	141	
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
28	May	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
29	June	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
30	July	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>	121	141	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>	121	141	

Part IV Other ALE Members of Aggregated ALE Group

Enter the names and EINs of Other ALE Members of the Aggregated ALE Group (who were members at any time during the calendar year).

Name	EIN	Name	EIN
36		51	
37		52	
38		53	
39		54	
40		55	
41		56	
42		57	
43		58	

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

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OMB No. 1545-2251

2023

Part I Employee				Applicable Large Employer Member (Employer)			
1 Name of employee (first name, middle initial, last name) John Q Participant		2 Social security number (SSN) 555-55-5555		7 Name of employer Acme Consulting, Inc.		8 Employer identification number (EIN) 55-5555555	
3 Street address (including apartment no.) 456 Main Street				9 Street address (including room or suite no.) 123 Pacific Avenue		10 Contact telephone number 555-555-5555	
4 City or town Marina del rey		5 State or province CA		11 City or town Marina del Rey		12 State or province CA	
				13 Country and ZIP or foreign postal code USA 90292			

Part II Employee Offer of Coverage	Employee's Age on January 1												Plan Start Month (enter 2-digit number): 01
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	
14 Offer of Coverage (enter required code)		1H	1H	1A	1A	1A	1A	1A	1A	1A	1A	1A	1A
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)		2A	2D	2C	2C	2C	2C	2C	2C	2C	2C	2C	2C
17 ZIP Code													

2A = Not employed during the month
 2D = LNP (waiting period)
 2C = Enrolled

1H = No offer of coverage
 1A = MEC, MV, FPL offered to employee; MV offered to spouse & dependent(s)

Scenario 2: Use Rate of Pay Safe Harbor; Cost of Self-Only Coverage Is \$183/mo.

VOID

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2023

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.
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Part I Employee				Applicable Large Employer Member (Employer)						
1 Name of employee (first name, middle initial, last name) John		2 Social security number (SSN) 555-55-5555		7 Name of employer Acme Consulting, Inc.			8 Employer identification number (EIN) 55-5555555			
3 Street address (including apartment no.) 456 Main Street		9 Street address (including room or suite no.) 123 Pacific Avenue			10 Contact telephone number 555-555-5555					
4 City or town Marina del Re		5 State or province CA		6 Country and ZIP or foreign postal code USA 90292		11 City or town Marina del Rey		12 State or province CA		13 Country and ZIP or foreign postal code USA 90292

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	01	
14 Offer of Coverage (enter required code)		1H	1H	1E	1E	1E	1E	1E	1E	1E	1E	1E	1E	1E	1E
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)		2A	2D	2H	2H	2H	2H	2H	2H	2H	2H	2H	2H	2H	2H

1H = No offer of coverage
1E = MEC, MV offered to employee; MV offered to spouse & dependent(s)

Form 1094-C, Line 22: Do not check box A (because not using FPL safe harbor)

Scenario 3: Same Facts as Scenario 2, but John Waives Coverage

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

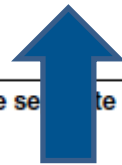
CORRECTED

OMB No. 1545-2251

2023

Part I Employee				Applicable Large Employer Member (Employer)										
1 Name of employee (first name, middle initial, last name) John		2 Social security number (SSN) Q Participant 555-55-5555		7 Name of employer Acme Consulting, Inc.				8 Employer identification number (EIN) 55-5555555						
3 Street address (including apartment no.) 456 Main Street				9 Street address (including room or suite no.) 123 Pacific Avenue				10 Contact telephone number 555-555-5555						
4 City or town Marina del Re		5 State or province CA		6 Country and ZIP or foreign postal code USA 90292				11 City or town Marina del Rey		12 State or province CA		13 Country and ZIP or foreign postal code USA 90292		
Part II Employee Offer of Coverage				Employee's Age on January 1					Plan Start Month (enter 2-digit number): 01					
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
14 Offer of Coverage (enter required code)		1H	1H	1E	1E	1E	1E	1E	1E	1E	1E	1E	1E	
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	\$ 183.00	
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)		2A	2D	2H	2H	2H	2H	2H	2H	2H	2H	2H	2H	
17 ZIP Code														

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.



2A = Not employed during the month
2D = LNP (waiting period)
2H = Rate of pay safe harbor

Scenario 4: Same Facts as Scenario 2, but Acme's Plan Is Self-Funded

Form 1095-C (2023)

600320
Page 3

Part III Covered Individuals

If Employer provided self-insured coverage, check the box and enter the information for each individual enrolled in coverage, including the employee.

	(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	June	July	Aug	Sept	Oct	Nov	Dec
18	John	Q	Participant	555-55-5555		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
19	Susan	A	Participant	444-44-4444		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
20	Emma	L	Participant	333-33-3333		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
21						<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"/>	

**No changes to page 1 of the 1095-C.
Page 3 (Part III) of the 1095-C must be completed.**

Form **1095-B**

Department of the Treasury
Internal Revenue Service

Health Coverage

Do not attach to your tax return. Keep for your records.
Go to www.irs.gov/Form1095B for instructions and the latest information.

VOID

CORRECTED

OMB No. 1545-2252

2023

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	6 State or province	7 Country and ZIP or foreign postal code
8 Enter letter identifying Origin of the Health Coverage (see instructions for codes): <input type="checkbox"/>		9 Reserved	

Part II Information About Certain Employer-Sponsored Coverage (see instructions)

10 Employer name			11 Employer identification number (EIN)
12 Street address (including room or suite no.)	13 City or town	14 State or province	15 Country and ZIP or foreign postal code

Part III Issuer or Other Coverage Provider (see instructions)

16 Name		17 Employer identification number (EIN)	18 Contact telephone number
19 Street address (including room or suite no.)	20 City or town	21 State or province	22 Country and ZIP or foreign postal code

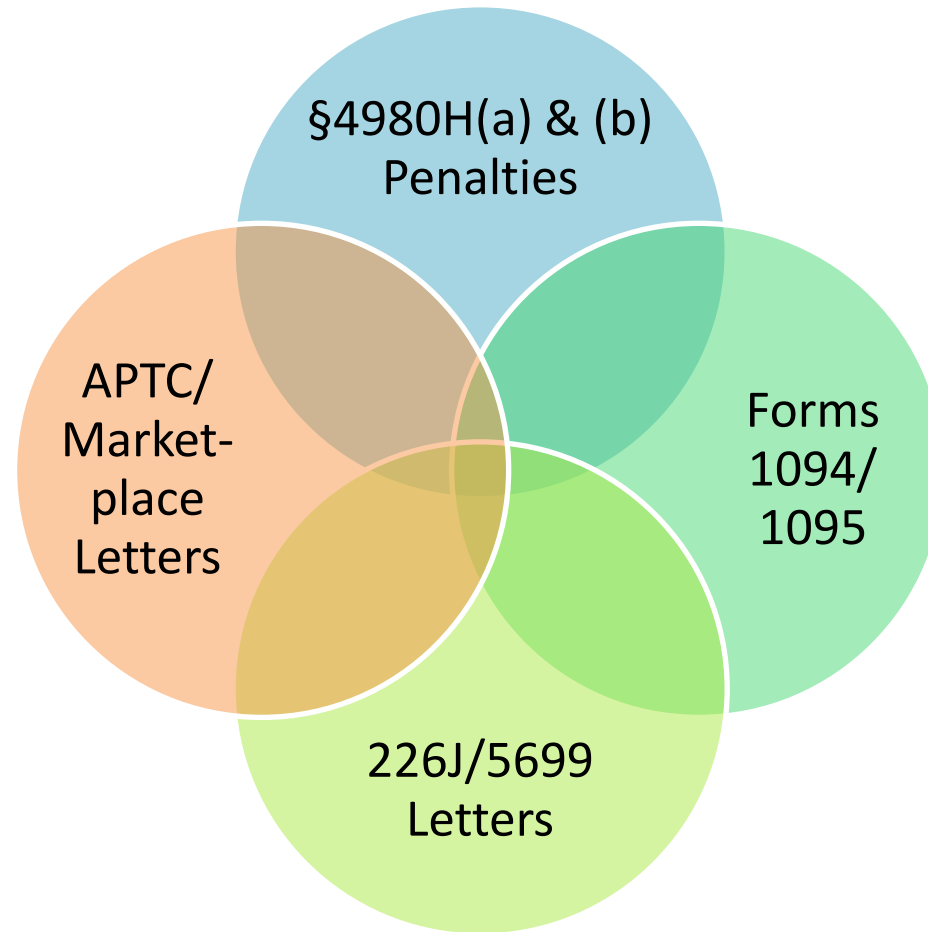
Part IV Covered Individuals (Enter the information for each covered individual.)

	(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"/>
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"/>

Which IRS Forms Will Enrolled Employees Receive?

Employer & Plan:	Full-Time Enrolled Employees Will Receive:
ALE and Fully Insured	<ul style="list-style-type: none"> • Form 1095-C from employer • Form 1095-B from insurer/HMO
ALE and Self-Funded	<ul style="list-style-type: none"> • Form 1095-C from employer • Enrolled part-time employees will also receive Form 1095-C from employer
ALE and Offers No Coverage	<ul style="list-style-type: none"> • Form 1095-C from employer
Small Employer and Fully Insured	<ul style="list-style-type: none"> • Form 1095-B from insurer/HMO
Small Employer and Self-Funded	<ul style="list-style-type: none"> • Form 1095-B from employer • Enrolled part-time employees will also receive Form 1095-B from employer
Small Employer and Offers No Coverage	<ul style="list-style-type: none"> • No Forms from employer or insurer/HMO
Employee Enrolls in Individual Covered CA Plan	<ul style="list-style-type: none"> • Form 1095-A from Covered CA

Next Steps



HHS Activity



- **Marketplace Appeal:** Appeal made to HHS; the purpose is to let you know that an employee received an APTC from the Marketplace (Covered CA)
 - 90 days to respond
- HHS is seeking very **specific** information about **each** employee identified
- The documents requested are designed to prove that this employee was:
 - 1) Made an offer of coverage for the calendar year, and that the employee waived or accepted the coverage
 - 2) Offered coverage that was affordable, based on the employee's income
 - 3) Offered coverage that was affordable, based on the cost of coverage
 - 4) Offered coverage that was MV (**tip:** SBC)
- **Compliance Tips:** For open enrollment, ensure that **your lowest-cost plan** — for entire calendar year — is clearly identified on the SBC and rate sheet (use same name); that the monthly cost of coverage for that plan is identified; and that names of employee and employer are identified

Summary of Benefits & Coverage (SBC)

Summary of Benefits and Coverage: What this Plan Covers & What You Pay for Covered Services
Insurance Company 1: Plan Option 1

Coverage Period: 01/01/2022-12/31/2022
Coverage for: Family | Plan Type: PPO



The Summary of Benefits and Coverage (SBC) document will help you choose a health [plan](#). The SBC shows you how you and the [plan](#) would share the cost for covered health care services. NOTE: Information about the cost of this [plan](#) (called the [premium](#)) will be provided separately. This is only a summary. For more information about your coverage, or to get a copy of the complete terms of coverage, [insert contact information]. For general definitions of common terms, such as [allowed amount](#), [balance billing](#), [coinsurance](#), [copayment](#), [deductible](#), [provider](#), or other underlined terms, see the Glossary. You can view the Glossary at [www.\[insert\].com](#) or call 1-800-[insert] to request a copy.

Important Questions	Answers	Why This Matters:
What is the overall deductible ?	\$500 / individual or \$1,000 / family	Generally, you must pay all of the costs from providers up to the deductible amount before this plan begins to pay. If you have other family members on the plan , each family member must meet their own individual deductible until the total amount of deductible expenses paid by all family members meets the overall family deductible .
Are there services covered before you meet your deductible ?	Yes. Preventive care and primary care services are covered before you meet your deductible .	This plan covers some items and services even if you haven't yet met the deductible amount. But a copayment or coinsurance may apply. For example, this plan covers certain preventive services without cost sharing and before you meet your deductible . See a list of covered preventive services at https://www.healthcare.gov/coverage/preventive-care-benefits/ .
Are there other deductibles for specific services?	Yes. \$300 for prescription drug coverage and \$300 for occupational therapy services. There are no other specific deductibles.	You must pay all of the costs for these services up to the specific deductible amount before this plan begins to pay for these services.
What is the out-of-pocket limit for this plan ?	For network providers \$2,500 individual / \$5,000 family; for out-of-network providers \$4,000 individual / \$8,000 family	The out-of-pocket limit is the most you could pay in a year for covered services. If you have other family members in this plan , they have to meet their own out-of-pocket limits until the overall family out-of-pocket limit has been met.
What is not included in the out-of-pocket limit ?	Copayments for certain services, premiums , balance-billing charges, and health care this plan doesn't cover.	Even though you pay these expenses, they don't count toward the out-of-pocket limit .
Will you pay less if you use a network provider ?	Yes. See www.[insert].com or call 1-800-[insert] for a list of network providers .	This plan uses a provider network . You will pay less if you use a provider in the plan's network . You will pay the most if you use an out-of-network provider , and you might receive a bill from a provider for the difference between the provider's charge and what your plan pays (balance billing). Be aware, your network provider might use an out-of-network provider for some services (such as lab work). Check with your provider before you get services.

Summary of Benefits & Coverage (SBC)

Excluded Services & Other Covered Services:

Services Your Plan Generally Does NOT Cover (Check your policy or plan document for more information and a list of any other excluded services.)		
<ul style="list-style-type: none">• Cosmetic surgery• Dental care (Adult)• Infertility treatment	<ul style="list-style-type: none">• Long-term care• Non-emergency care when traveling outside the U.S.• Private-duty nursing	<ul style="list-style-type: none">• Routine eye care (Adult)• Routine foot care
Other Covered Services (Limitations may apply to these services. This isn't a complete list. Please see your plan document.)		
<ul style="list-style-type: none">• Acupuncture (if prescribed for rehabilitation purposes)• Bariatric surgery	<ul style="list-style-type: none">• Chiropractic care• Hearing aids	<ul style="list-style-type: none">• Weight loss programs

Your Rights to Continue Coverage: There are agencies that can help if you want to continue your coverage after it ends. The contact information for those agencies is: [insert State, HHS, DOL, and/or other applicable agency contact information]. Other coverage options may be available to you, too, including buying individual insurance coverage through the [Health Insurance Marketplace](#). For more information about the [Marketplace](#), visit www.HealthCare.gov or call 1-800-318-2596.

Your Grievance and Appeals Rights: There are agencies that can help if you have a complaint against your [plan](#) for a denial of a [claim](#). This complaint is called a [grievance](#) or [appeal](#). For more information about your rights, look at the [description of benefits](#) you will receive for that medical [claim](#). Your [plan](#) documents also provide complete information on how to submit a [claim](#), [appeal](#), or [request for a waiver](#) for any reason to your [plan](#). For more information about your rights, this notice, or assistance, contact: [insert applicable contact information from insert plans].

Does this plan provide Minimum Essential Coverage? Yes.

[Minimum Essential Coverage](#) generally includes [plans](#), [health insurance](#) available through the [Marketplace](#) or other individual market policies, Medicare, Medicaid, CHIP, TRICARE, and certain other coverage. If you are eligible for [other types of Minimum Essential Coverage](#), you may not be eligible for the [premium tax credit](#).

Does this plan meet the Minimum Value Standards? Yes.

If your [plan](#) doesn't meet the [Minimum Value Standards](#), you may be eligible for a [premium tax credit](#) to help you pay for a [plan](#) through the [Marketplace](#).

Language Access Services:

[Spanish (Español): Para obtener asistencia en Español, llame al [insert telephone number].]

[Tagalog (Tagalog): Kung kailangan ninyo ang tulong sa Tagalog tumawag sa [insert telephone number].]

[Chinese (中文): 如果需要中文的帮助, 请拨打这个号码[insert telephone number].]

[Navajo (Dine): Dinek'ehgo shika at'ohwol ninisingo, kwijigo holne' [insert telephone number].]

To see examples of how this [plan](#) might cover costs for a sample medical situation, see the next section.

PRA Disclosure Statement: According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1146. The time required to complete this information collection is estimated to average 0.08 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.



- **IRS 226J Letter:** The purpose is to notify you that you may owe a § 4980H penalty for a specific tax year
 - Includes proposed “Employer Shared Responsibility Payment” (ESRP)
 - Includes also Form 14764 (ESRP Response) and Form 14765 (Employee Premium Tax Credit (PTC) Listing)
 - 30 days to respond
- **IRS 5699 Letter:** The purpose is to notify you that you have not filed the 1094/1095 forms for a specific tax year and may impose a fine
- **Action Items:** Don’t panic; be prepared to respond timely; ask for help when needed; get your records and supporting documentation together; consider problems that may exist in subsequent years and fix them

ESRP Summary Table

Month	Information Reported to IRS		c.	d.	e.	f.	g.
	a.	b.					
	Form 1094-C, Part III, Col (a) Minimum essential coverage offer indicator offered to at least [70% or 95%]	Form 1094-C, Part III, Col (b) Full-time employee count for ALE member	Allocated reduction of full-time employee count for IRC Section 4980H(a)	Count of assessable full-time employees with a PTC for IRC Section 4980H(a)	Count of assessable full-time employees with a PTC for IRC Section 4980H(b)	Applicable IRC Section 4980H provision	Monthly ESRP amount
Jan	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Feb	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
March	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Apr	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
May	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
June	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
July	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]

Employee Premium Tax Credit (PTC) Listing

Any month not highlighted is a month that the employee received a PTC and no safe harbor or other relief from the ESRP was applicable. The employee is an assessable full-time employee for that month. Any month that shows XF, XG, or XH is due to a determination that you do not qualify for the safe harbor being claimed (2F, 2G, or 2H). If you still think the safe harbor applies, you may provide your computation with your written request for reconsideration.

Employer name										Employer ID number		Tax year				Additional Information Attached
ACME CONSULTING, INC.										XX-XXXXXXX		2023				
Employee Name <i>(last, first)</i>	SSN <i>(last 4 digits)</i>	All 12 months Indicator Codes <i>(Form 1095-C, lines 14 and 16 combined)</i>	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
BOB BROWN	1234		1H	1H	1H	1H	1H/2D	1H/2D	1E/2H	1E/2H	1E/2H	1E/2H	1E/2H	1E/2H		<input type="checkbox"/>
															<input type="checkbox"/>	
															<input type="checkbox"/>	

IRC §§ 6721 and 6722 Penalties

Returns Due	Penalty Rate	Not More than 30 Days Late	31 Days Late through August 1	After August 1	Intentional Disregard
From 1-1-2024 through 12-31-2024	Per return/ max	\$60/ \$630,500	\$120/ \$1,891,500	\$310 \$3,783,000	\$630/ No max
From 1-1-2023 through 12-31-2023	Per return/ max	\$50/ \$588,500	\$110/ \$1,766,000	\$290/ \$3,532,500	\$580/ No max
From 1-1-2022 through 12-31-2022	Per return/ max	\$50/ \$571,000	\$110/ \$1,713,000	\$280/ \$3,426,000	\$570/ No max

For 2021 forms and thereafter, same penalties will apply for forms furnished or filed with incorrect information; good faith penalty relief no longer available

Note: Other relief may be available. Under IRC section 6724, penalties will not be imposed if a taxpayer can show that a reporting failure is due to “reasonable cause” and not willful neglect.

Resources

- **From Monahan Law Office** (when the IRS forms are finalized):
 - IRS Form 1095-C (2023): Indicator Codes for Lines 14 and 16
 - IRS Forms 1094-C and 1095-C (2023): LNPs
 - IRS Reporting Action Plan (2023)
- **From the IRS:**
 - Publications 5208 and 5200: Affordable Care Act: Are you an applicable large employer?
 - Publication 15-A: Employer’s Supplemental Tax Guide
 - FAQs: ACA Information Center for Applicable Large Employers (ALEs) (online)
- **From the California Franchise Tax Board (FTB) (S.B. 78):**
 - Go to www.ftb.ca.gov and look for “Health Care Mandate” or “Minimum Essential Coverage Individual Mandate”

ACA Checklist for ALEs for Open Enrollment

- Choose MEC, MV plan
 - ACA is focused on lowest-cost plan, but may also offer buy-up options
 - SBC confirms MEC, MV status
- Choose affordability safe harbor and calculate employee self-only premium contribution; document safe harbor; create rate sheet
- Define eligibility and waiting period; document in SPD
- Identify FT employees and offer MEC, MV, affordable coverage to at least 95%
- As you prepare open enrollment materials, for each month of the calendar year, ensure that **your lowest-cost plan** is clearly identified on the SBC and rate sheet (use same name); that the monthly cost of coverage for that plan is identified; and that enrollment form/waiver includes name of employee, employer, plans offered, coverage period, and date
- Compliance Tip:** Keep records! SBCs, rate sheets, affordability safe harbor, employee counts, offers of coverage, waivers, etc. — everything you need to complete the 1094/1095 forms (or FTB form) and respond to an IRS audit or HHS appeal

Questions?

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The information provided during this program does not constitute legal advice. In addition, this program only provides a summary of certain complex and always evolving laws and regulations. Attendees should consult their legal counsel for guidance on the application and implementation of the many federal and state laws that impact employee benefit plans and the workplace, including the topics discussed during this program.

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THANK

YOU!

