

# Employers

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## Employer Shared Responsibility Provisions

### Basic Information

- Under the Affordable Care Act’s employer shared responsibility provisions, certain employers (called applicable large employers or ALEs) must either offer [minimum essential coverage](#) that is “affordable” and that provides “minimum value” to their full-time employees (and their dependents), or potentially make an employer shared responsibility payment to the IRS. The employer shared responsibility provisions are sometimes referred to as “the employer mandate” or “the pay or play provisions.” The vast majority of employers will fall below the ALE threshold number of employees and, therefore, will not be subject to the employer shared responsibility provisions.
- The same employers that are subject to the employer shared responsibility provisions (that is, ALEs) also have [information reporting responsibilities](#) regarding minimum essential coverage offered to employees. These responsibilities require employers to send reports to employees and to the IRS. An employer that sponsors self-insured health insurance coverage – whether or not the employer is an ALE – has [insurer information reporting responsibilities](#) as a provider of [minimum essential coverage](#). Also see our [Q&A pages for offers of health insurance coverage by employers \(Section 6056\)](#) and [information reporting by health coverage providers \(Section 6055\)](#).

### Which Employers are Subject to the Employer Shared Responsibility Provisions?

ALEs are subject to the employer shared responsibility provisions. Whether an employer is an ALE in a particular calendar year depends on the size of the employer’s workforce in the preceding calendar year. To be an ALE for a particular calendar year, an employer must have had an average of at least 50 full-time employees (including full-time-equivalent employees) during the preceding calendar year. So, for example, an employer will use information about the size of its workforce during 2016 to determine if it is an ALE for 2018.

All types of employers can be ALEs, including tax-exempt organizations and government entities.

If an ALE is made up of multiple employers (called applicable large employer, or ALE, members), the ALE members are aggregated, that is considered together, in determining whether the group of employers is an ALE. Generally, each individual ALE member is responsible for its own employer shared responsibility payment.

For more information on how to determine if an employer is an ALE, including the aggregation rules, relevant definitions and rules for new employers, see [Determining If You Are an Applicable Large Employer](#). For more information on ALE status, see the [Employer Shared Responsibility Provisions Questions and Answers](#) and section 54.4980H-2 of the [ESRP regulations](#).

## **Under What Circumstances Will an Employer Owe an Employer Shared Responsibility Payment?**

An ALE member may choose either to offer affordable minimum essential coverage that provides minimum value to its full-time employees (and their dependents) or potentially owe an employer shared responsibility payment to the IRS. Depending on its decisions about offering minimum essential coverage to its full-time employees and their dependents, an ALE member may be subject to one of two potential employer shared responsibility payments.

For purposes of the employer shared responsibility provisions, a dependent is an employee's child (including a child who has been legally adopted or placed for adoption) who has not reached the age of 26. Spouses are not considered dependents and neither are stepchildren or foster children. For more information, see the [Description of Payments](#) page.

An ALE member will owe the first type of employer shared responsibility payment if it does not offer minimum essential coverage to at least 95 percent of its full-time employees (and their dependents), and at least one full-time employee receives the premium tax credit for purchasing coverage through the Health Insurance Marketplace. Two types of [transition relief](#) are available for this type of employer shared responsibility payment.

Even if an ALE member offers minimum essential coverage to at least 95 percent of its full-time employees (and their dependents), it may owe the second type of employer shared responsibility payment for each full-time employee who receives the premium tax credit for purchasing coverage through the Marketplace. In general, a full-time employee could receive the premium tax credit if: (1) the minimum essential coverage the employer offers to the employee is not affordable; (2) the minimum essential coverage the employer offers to the employee does not provide minimum value; or (3) the employee is not one of the at least 95 percent of full-time employees offered minimum essential coverage.

- For information on who is eligible for the premium tax credit, see our [Premium Tax Credit](#) page.
- The terms “affordable” and “minimum value” have specific meanings under the Affordable Care Act. For more information on how an employer knows whether the minimum essential coverage that it offers provides minimum value or is affordable, see our [Minimum Value and Affordability Requirements](#) information.
- Also see our [ESRP Question and Answers](#) and sections 54.4980H-4 and 54.4980H-5 of the [ESRP regulations](#).

## **How Are the Employer Shared Responsibility Payments Calculated?**

An ALE member may be subject to one of two employer shared responsibility payments, but not both, and the [two types of payments](#) are calculated differently. An ALE member may not be subject to both types of payments regardless of the decisions it makes about offering or not offering minimum essential coverage to its full-time employees (and their dependents).

1. In general, an ALE member that **does not offer** minimum essential coverage to at least 95 percent of its full-time employees (and their dependents) will be liable for the first type of employer shared responsibility payment if at least one full-time employee receives the premium tax credit for purchasing

coverage through the Marketplace. On an annual basis, this payment is equal to \$2,000 (indexed for future years) for each full-time employee, with the first 30 employees excluded from the calculation. This calculation is based on **all** full-time employees (minus 30), including full-time employees who have minimum essential coverage under the employer's plan or from another source. There is [transition relief](#) regarding the calculation of this payment and the percentage of full-time employees that need to be offered minimum essential coverage for the employer to avoid this payment for 2015.

2. In general, an ALE member that **does offer** minimum essential coverage to at least 95 percent of its full-time employees (and their dependents) will be liable for the second type of employer shared responsibility payment if at least one full-time employee receives the premium tax credit for purchasing coverage through the Marketplace. Generally, a full-time employee will receive the premium tax credit because the minimum essential coverage offered was not affordable, did not provide minimum value, or because the employee was not one of the at least 95 percent of full-time employees offered minimum essential coverage. On an annual basis, this payment is equal to \$3,000 (indexed for future years) but only for each full-time employee who receives the premium tax credit. The total payment in this instance cannot exceed the amount the employer would have owed had the employer not offered minimum essential coverage to at least 95 percent of its full-time employees (and their dependents).

For either type of employer shared responsibility payment to apply to an ALE member, at least one full-time employee must receive the premium tax credit for purchasing coverage through the Marketplace.

Although expressed here as an annual number, each type of employer shared responsibility payment is calculated on a monthly basis and is not a flat amount for all ALE members. Rather, the employer shared responsibility payment amount will depend on either the number of full-time employees of the ALE member (for an employer not offering coverage) or on the number of full-time employees of the ALE member who receive the premium tax credit for purchasing coverage through the Marketplace (for an employer offering coverage that is not affordable or does not offer minimum value).

The employer shared responsibility provisions provide for an inflation adjustment beginning in calendar years after 2014. In the case of any calendar year after 2014, the applicable per-employee dollar amounts of \$2,000 and \$3,000 are increased based on the premium adjustment percentage (as defined in section 1302(c)(4) of the Affordable Care Act) for the year, rounded to the next lowest multiple of \$10.

- For calendar year 2015, the adjusted \$2,000 amount is \$2,080 and the adjusted \$3,000 amount is \$3,120.
- For calendar year 2016, the adjusted \$2,000 amount is \$2,160 and the adjusted \$3,000 amount is \$3,240.
- For calendar year 2017, the adjusted \$2,000 amount is \$2,260 and the adjusted \$3,000 amount is \$3,390.
- For calendar year 2018, the adjusted \$2,000 amount is \$2,320 and the adjusted \$3,000 amount is \$3,480.

For more details see [Notice 2015-87](#) (question 13).

- For more detailed information about the employer shared responsibility payments, visit [Calculating the Employer Shared Responsibility Payment](#).
- Also see our [ESRP Question and Answers](#) and sections 54.4980H-4 and 54.4980H-5 of the [ESRP regulations](#).
- For more information on how an employer knows whether the minimum essential coverage that it offers provides minimum value or is affordable, see our [Minimum Value and Affordability Requirements](#) information.

## Identifying Full-Time Employees

Determining which employees are full-time employees is central to the employer shared responsibility provisions.

An employer must identify its full-time employees to determine:

1. If it is an [ALE](#), and, therefore, subject to the employer shared responsibility provisions;
2. To whom it must offer minimum essential coverage to avoid an [employer shared responsibility payment](#); and
3. The amount of any potential liability for an employer shared responsibility payment. Note that an employer is not obligated to calculate its liability, and should not make a payment without first being contacted by the IRS.

In general, for purposes of the employer shared responsibility provisions, a full-time employee is, for a calendar month, an employee employed on average at least 30 hours of service per week, or 130 hours of service per month. There are two methods for determining full-time employee status that apply for purposes of determining the amount of any potential liability under the employer shared responsibility provisions.

- For more information on those two methods and for details on the definition of hour of service, see our [Full-Time Employee](#) page.
- Also see our [ESRP Question and Answers](#) and sections 54.4980H-1(a)(21) and 54.4980H-3 of the [ESRP regulations](#).
- Note that the employer shared responsibility provisions in no way stop an employer from offering minimum essential coverage to more than just its full-time employees (and their dependents).

## Transition Relief

For 2016, transition relief is available under the employer shared responsibility provision but only with respect to employer coverage with a plan year that is different than the calendar year (referred to as a non-calendar-year plan) and only for employers that meet the other requirements for the applicable relief.

Several forms of transition relief under the employer shared responsibility provisions were available for calendar year 2015. Because employers generally offer coverage for a 12-month plan year and some plan years are different than the calendar year, certain forms of transition relief are available to plan years that began in calendar year 2015 and end in calendar year 2016 (the 2015 plan year).