



e-Alert

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ACA “Play-or-Pay” Penalties Increased for 2021

Background

The Affordable Care Act (ACA) requires applicable large employers (ALEs) to offer affordable, minimum value health coverage to their full-time employees or pay a penalty. This employer mandate provision is commonly referred to as the “employer shared responsibility” or “play-or-pay” rules. An ALE is an employer with 50 or more full-time employees, or an equivalent combination of full-time and part-time employees.

Summary

On August 19, 2020, the Internal Revenue Service (IRS) updated its [frequently asked questions](#) (FAQs) on the “pay or play” penalties, which included increased penalty amounts for the 2021 calendar year.

The new penalties for 2021 are:

- The adjusted \$2,000 amount is increased to **\$2,700**
- The adjusted \$3,000 amount is increased to **\$4,060**

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Play-or-Pay Penalties

There are two separate penalties that can apply under the employer shared responsibility rules:

- The **Section 4980H(a) penalty** can apply when an ALE does not offer coverage to “substantially all” full-time employees (and dependents). The annual penalty is calculated as **the ALE’s number of full-time employees (minus 30) x \$2,000 (adjusted to \$2,700 for 2021)**.
- The **Section 4980H(b) penalty** can apply when an ALE does not offer coverage to all full-time employees or offers coverage that is either unaffordable or does not provide minimum value. The annual penalty is calculated as **\$3,000 (adjusted to \$4,700 for 2021) x the number of the ALE’s full-time employees who receive an exchange cost-sharing subsidy**.

After 2014, the applicable per-employee dollar amounts of \$2,000 and \$3,000 are increased annually based on the premium adjustment percentage for the year.

Employer Next Steps

- Be aware that you may need to lower your employee contributions for 2021 to meet the adjusted percentage.
- HRK recognizes the complexity of this information and we will be happy to guide our clients through it. Please contact our [Benefits Team](#) if you have any questions.

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