

LEGAL UPDATE

ACA Pay or Play Penalties Will Increase for 2021

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 also known as the “employer shared responsibility” or “pay or play” rules.

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

Pay or Play Penalties

Two separate penalties can apply under the employer shared responsibility rules—the Section 4980H(a) penalty and the Section 4980H(b) penalty.

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

After 2014, the applicable per-employee dollar amounts of \$2,000 and \$3,000 are increased based on the premium adjustment percentage for the year. According to the IRS’ FAQs, for the 2021 calendar year, the adjusted \$2,000 amount is **\$2,700** and the adjusted \$3,000 amount is **\$4,060**.

Highlights

On Aug. 19, 2020, the IRS updated its FAQs on the pay or play penalties to include the following increased penalty amounts for the 2021 calendar year:

- The adjusted \$2,000 amount is **\$2,700**; and
- The adjusted \$3,000 amount is **\$4,060**.

For the 2021 calendar year, the adjusted \$2,000 amount is \$2,700 and the adjusted \$3,000 amount is \$4,060.

Provided to you by **Kinloch Consulting Group, Inc.** Sept. 2, 2020

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