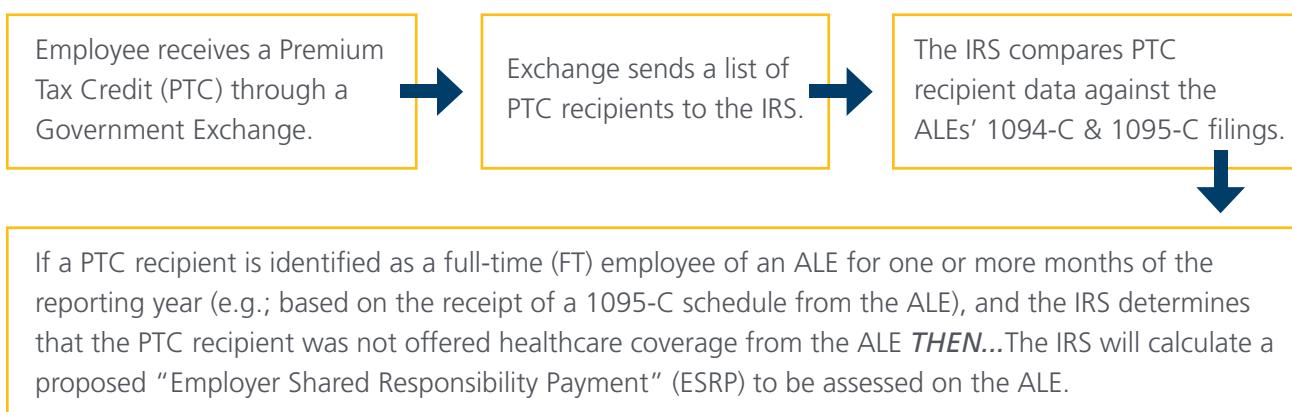


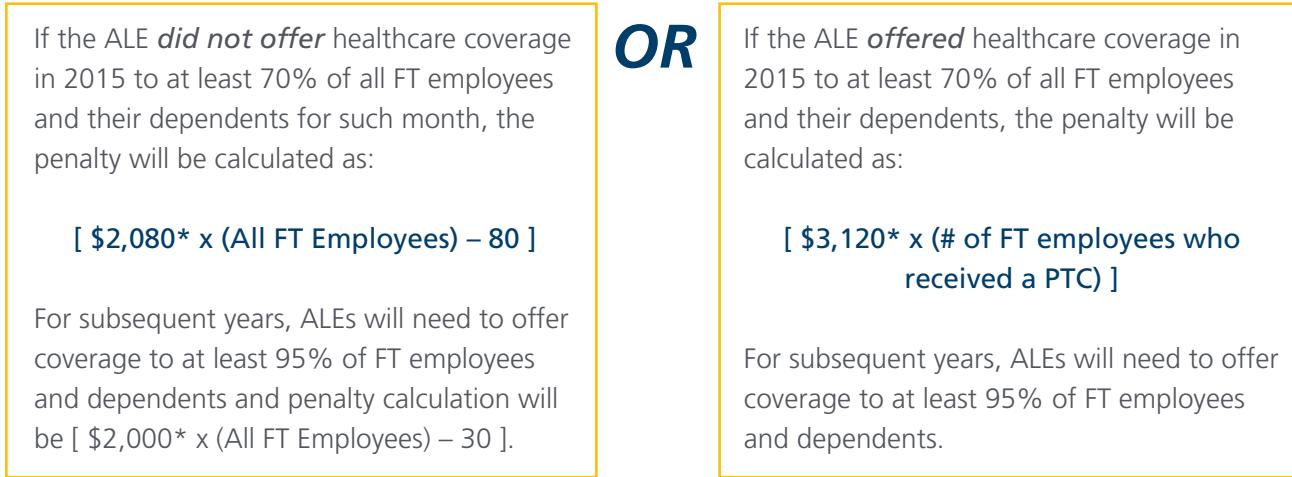
ACA: How to Respond to an IRS Letter 226J

Many Applicable Large Employers (ALEs) have received Letter 226J from the IRS that indicates their proposed assessment of a penalty under the Employer Shared Responsibility provision of Section 4980H of the Patient Protection and Affordable Care Act (ACA). This document provides an overview of IRS Letter 226J and how ALEs should respond.

Applicable Large Employers (ALEs): *An ALE is any company or organization that has an average of at least 50 full-time employees or “full-time equivalents” or “FTE.”*



For each “penalty eligible” month, the IRS calculates the penalty as follows:



The IRS sends the Employer IRS Letter 226J proposing an “Employer Shared Responsibility Payment”

- Total proposed penalty for the calendar year, with calculations shown
- List of employees who received a Premium Tax Credit, by month
- Employer has about 30 days to respond, but may request a short extension

Phase 1 Goal: Penalty Elimination

1. Review 1094-Cs and 1095-Cs for PTC listed employees.
2. Verify enrollment status of PTC employees.
3. Verify offers of health coverage for non-enrolled PTC employees.
4. Verify FT/LNA status of PTC employees.
5. Prepare PTC employee verification report.
6. Calculate adjusted 4980H assessment.
7. Correct PTC listing errors.
8. Assist in client response to letter 226J.

Phase 2 Goal: Penalty Reduction

If Phase 1 of the Penalty Defense Analysis is unable to reduce the number of properly PTC Listed employees to zero, then the Employer may choose to perform a comprehensive redetermination of the tax year data.

A proficient vendor may be able to dramatically reduce the penalty exposure for a given tax year by performing an accurate redetermination of the ACA data underlying the ACA filings for a particular tax year.

Employer responds to Letter 226J using form 14764 "ESRP Response." Employer will either:

Agree with the initial assessment and pay proposed penalty.

If the ALE pays the originally proposed assessment amount the process ends here.

OR

Disagree all or in part with the initial assessment and provide revised proposed penalty.

The IRS will acknowledge the Employer's response to IRS Letter 226J with IRS Letter 227. Letter 227 will describe further actions that the Employer may need to take. If the Employer disagrees with the IRS's proposed or revised, if applicable, penalty amount, Employer may request a Pre-Assessment Conference with the IRS Office of Appeals within 30 days of the date of Letter 227.

IRS Letter 226J Tips



- Most issues are easily corrected.
- Most penalties are a result of typos.
 - Failure to select Minimum Essential Coverage (MEC) indicator
 - Disconnect between payroll vendor and benefits professionals on measurement method used
- An important first step is to obtain forms and information relating to year in question.

It is very important for ALEs to respond to Letter 226J and do so in a timely manner. The IRS provides 30 days, from the date of issuance, for ALEs to respond, and if no response is made by the ALE, the IRS will conclude the employer does not disagree with the proposed assessment.

* These amounts are adjusted annually.

