

HR Bulletin

A people management & compliance solutions newsletter by HR Service, Inc., (801) 685-8400, www.HRServiceInc.com.

AFFORDABLE CARE ACT (ACA) CALCULATIONS?

Am I an Applicable Large Employer (ALE)? What's a lookback period? What's my measurement period? What's my stability period? What's an administrative period? Am I part of a controlled group? Which employees must be included in calculations? Do I have to report on sections 6055 and 6056 employer reporting?

There are so many different calculations governing the Affordable Care Act. If you get one of them wrong, you are in violation of the act and subject to fines and penalties. In this article, we are going to provide clear explanations to help you comply.

Applicable Large Employer (ALE)

The Affordable Act and its enforcers, the Internal Revenue Service (IRS), Department of Labor (DOL) and Health and Human Services Department, require all organizations who are an "ALE" to offer medical insurance to their employees that meets minimum essential value requirements at affordable rates. They further require ALEs to submit reports 1095-C/1094-C reporting on sections 6055 and 6065.

An organization is considered an applicable large employer if they average 50 or more full-time or full-time equivalent (FTE) employees during the prior year. The employer looks back over an entire 12 month period of time, adding all full-time employees who averaged 30 hours or more work per week, along with all work hours performed by part-time, temporary and seasonal employees. Work hours include time paid (including sick, jury, disability, severance, leaves of absence, vacation and holidays).

ALE Calculation

- 1) Determine the number of full-time employees for each month (anyone averaging 30+ hours per week or 130 hours per month).

- 2) Total the full-time equivalent (FTE) service hours for all variable hour employees (part-time, temporary and seasonal employees) and divide this by 120.
- 3) Add the FT employee to the FTE for each month and divide by 12 to find the average.

If you have 50 or more, you are an ALE. (See below example.) Note: if your business has a seasonal hiring pattern (i.e. summer or holiday hires), you may be able to exclude those employees if the period of hire is less than 120 days in a calendar year. See <http://www.irs.gov/Affordable-Care-Act/Employers/Determining-if-an-Employer-is-an-Applicable-Large-Employer>, seasonal workers.

Example For Determining Applicable Large Employer Status

EXAMPLE												
	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
Full-time employees	48	45	47	49	50	51	49	50	49	47	48	47
Full-time equivalent (FTE) employees												
hours of service – part-time employee 1	120	118	115	118	120	120	118	115	110	100	100	120
hours of service – part-time employee 2	60	60	50	48	60	50	25	60	40	40	60	60
hours of service – part-time employee 3	70	95	100	95	80	70	80	100	95	95	87	100
Total hours of service for non-full-time employees	250	273	265	261	260	240	223	275	245	235	247	280
divided by 120 hours	120	120	120	120	120	120	120	120	120	120	120	120
Total Full-time equivalent (FTE) employees	2.08	2.28	2.21	2.18	2.17	2.00	1.86	2.29	2.04	1.96	2.06	2.33
Employer size (monthly)	50.08	47.28	49.21	51.18	52.17	53.00	50.86	52.29	51.04	48.96	50.06	49.33
Employer size (Jan.-Dec.)	605.45											
Average employer size per month (605.45 ÷ 12)	50.45											
Employer size (round down)	50											

No more than 120 hours for any non-full-time employee can be used in this calculation. They may have had more than 120 hours of service in the month, but only 120 hours is allowed in the calculation.

Controlled Groups

If you are part of a controlled group, you must include total FT and FTE for all applicable controlled groups together to determine ALE status for all group members. There are three applicable control groups as defined by the [IRS Code § 414 \(b\) and 414 \(c\)](#).

A Parent-Subsidy Group is when one or more businesses are connected through stock with a

common parent corporation and (a) 80% of the stock of each corporation (excluding the common parent corporation) is owned by one or more corporations in the group and (b) the Parent Corporation owns 80% of at least one other corporation.

A **Brother-Sister Group** is a group of two or more corporations, where five or less common owners (common owners included individuals, a trust, or an estate) own a controlling interest (direct or indirect) of each group and have effective control.

A **Combined Group** is a group consisting of three or more organizations where (a) each organization is a member of either a parent-subsidiary or brother – sister group and (b) at least one corporation is the common parent of a parent-subsidiary and is also a member of a brother-sister group.

(See: <http://www.irs.gov/pub/irs-tege/epchd704.pdf>.)

If you are attempting to classify employees as independent contractors in attempts to fall below the 50 ALE number, be careful. The IRS and DOL are cracking down on any misclassifications. Read the new DOL guidance memo on this topic at http://www.dol.gov/whd/workers/Misclassification/AI-2015_1.htm.

Measurement, Stability, and Admin Periods

Measurement periods are the defined period of time where an employer calculates average work hours for variable hour employees to determine if they are eligible to participate in their medical insurance plan or not. Any variable employee who averages 30 hours or more during the measurement period is eligible. Measurement periods can be between three and 12 months in length. You can also define different measurement periods for new hires and for regular employees. Make sure to define your selected measurement periods, stability periods and administrative periods in writing, and consistently follow and administer benefit eligibility accordingly.

A **stability period** is the time period that an eligible employee can remain on medical coverage regardless of their current average work hours. The stability period must be equivalent to the same time period as the measurement period, but not less than 6 months.

Employers are allowed an **administrative period** of up to 90 days to perform initial measurement period calculation of eligibility for coverage and enrollment

into plans. However, the measurement period and stability period combined cannot be more than 13 months for new employees. As soon as one Measurement Period ends, the next one begins with the Administrative Period overlapping the end of the prior Stability Period and the beginning of the next Measurement Period.



Calculating the Play or Pay Penalty

For businesses with fewer than 50 FTE, there is no play or pay penalty. Penalties are based on two areas of compliance: minimum essential coverage (plan pays on average at least 60% of the total allowed benefits and participants don't pay more than 40%) and affordable coverage (not more than 9.5% of employee's monthly wage for self only coverage). Businesses with 50 or more employees that do not offer minimum essential coverage will be assessed a \$2,000 per employee (minus the 30 employee allowance allowed for this category only) per year tax penalty if even one employee enrolls in a health insurance exchange plan and qualifies for a premium subsidy or federal tax credit. This penalty goes to \$3,000 per employee if the coverage offered is not affordable.

Sections 6055 and 6056 employer reporting

If you are an ALE with 50 or more FT or FTE employees, you are required to complete forms 1095-C/1094-C to report who is offered minimum essential coverage at affordable rates. This allows the IRS to determine if you or employees are to be fined. All self-funded plans must report as well, either on forms 1095-B (if less than 50 employees) or 1095-C.

Make sure you use the right calculations when determining which parts of the Affordable Care Act apply to you and in setting up eligibility. There are many facts to consider in adhering to these laws and ensuring compliance.

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