

LEGAL UPDATE



IRS Releases ACA Pay-or-Play Penalties for 2025

On Feb. 12, 2024, the IRS [released](#) updated penalty amounts for 2025 related to the employer shared responsibility (pay-or-play) rules under the Affordable Care Act (ACA). For calendar year 2025, the adjusted \$2,000 penalty amount is **\$2,900**, and the adjusted \$3,000 penalty amount is **\$4,350**. This is a decrease from the penalty amounts for the 2024 calendar year, which are \$2,970 and \$4,460, respectively.

Pay-or-Play Penalty Calculations

Under the pay-or-play rules, an applicable large employer (ALE) is only liable for a penalty if at least one full-time employee receives a subsidy for Exchange coverage. Employees who are offered affordable, minimum-value (MV) coverage are generally not eligible for these Exchange subsidies.

Depending on the circumstances, one of two penalties may apply under the pay-or-play rules: the **4980H(a) penalty** or the **4980H(b) penalty**.

IMPORTANT DATES

March 9, 2023

The IRS released pay-or-play penalty amounts for 2024.

Feb. 12, 2024

The IRS released pay-or-play penalty amounts for 2025.

2025 Calendar Year

The 2025 penalty amounts apply for failures to offer affordable, MV coverage during the 2025 calendar year.

- Under Section 4980H(a), an ALE will be subject to a penalty if it does not offer coverage to “substantially all” (generally, at least 95%) of its full-time employees (and dependents) and any one of its full-time employees receives a subsidy toward their Exchange plan. The monthly penalty assessed on ALEs that do not offer coverage to substantially all full-time employees and their dependents is equal to **the ALE’s number of full-time employees (minus 30) multiplied by 1/12 of \$2,000 (as adjusted) for any applicable month**.
- Under Section 4980H(b), ALEs that offer coverage to substantially all full-time employees (and dependents) may still be subject to a penalty if at least one full-time employee obtains a subsidy through an Exchange because the ALE did not offer coverage to all full-time employees, or the ALE’s coverage is unaffordable or does not provide MV. The monthly penalty assessed on an ALE for each full-time employee who receives a subsidy is **1/12 of \$3,000 (as adjusted) for any applicable month**. However, the total penalty for an ALE is limited to the 4980H(a) penalty amount.

IRS Pay-or-Play Penalty Resources

The IRS provides a variety of resources on the pay-or-play provisions that provide more information on calculating the penalty. Employers can use the following IRS web pages for more details:

- [Employer Shared Responsibility Provisions](#)
- [Types of Employer Payments and How They Are Calculated](#)

Additional web pages are dedicated to other aspects of the pay-or-play rules.