

IRS Releases ACA Penalty Letters for 2016 Plan Year

The employer mandate penalty notices for 2016 have been mailed the week of November 12, 2018. Better known as Letter 226-J, these notices inform employers of a preliminary



nary penalty under IRC Section 4980H. In late 2017, the IRS began mailing notices for 2015 – with a reported 30,000 applicable large employers receiving Letter 226-J.

Much Larger Pool This Year

In 2017, the IRS 226-J letters were issued for the 2015 plan year, the first in which Applicable Large Employers (ALEs) were subject to the “play or pay” penalties of IRC Section 4980H. In 2014, only employers with 100 or more full-time plus full-time equivalents were subject to the penalties in 2015. In 2015, the penalties applied to employers with 50 or

more full-time plus full-time equivalents, so many more employers would be subjected to the penalties in 2016.

In addition, in 2015, ALEs were deemed to not make a qualifying “offer of coverage” if less than 70 percent of eligible full-time employees were offered health plans. In 2016 and all subsequent plan years, the ACA required a qualifying offer of coverage to at least 95 percent of eligible full-time employees. Thus it is expected that many more employers will receive Letters from the IRS this year.

What to Do If You Get a Letter

If you receive a 226-J Letter, you must act very quickly. If the employer agrees with the proposed penalty, they simply sign and date the response form and pay the penalty. Otherwise, the response must include an explanation of why there’s disagreement with the proposed penalty and describe changes that need to be made to reported information, such as previously filed Forms 1095-C and 1094-C. Whether the employer agrees or disagrees with the Letter 226-J preliminary assessment, response is required within 30 days from the date of the letter.

If you get a Letter, reviewing the preliminary penalty calculations for accuracy could be a time-intensive exercise. Drafting a thorough

and complete response to reduce the proposed penalty could prove to be an even more

arduous task. But the effort may be well worth it.

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