

# 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 **New England Employee Benefits Co., Inc.**



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