

Health Care Reform Update

New Law Increases ACA Information Reporting Penalties

The [Trade Preferences Extension Act of 2015](#) will **increase** the penalty amounts that may apply to employers subject to the Affordable Care Act's information reporting provisions, among other things. **Such employers are required to report for the first time in early 2016 for calendar year 2015.**

Information Reporting Penalties

[Self-insuring employers](#) that provide minimum essential health coverage (regardless of size) and [large employers](#) with **50 or more full-time employees** (including full-time equivalents) that fail to comply with the information reporting requirements may be subject to the general reporting penalty provisions under Internal Revenue Code (IRC) sections [6721](#) (failure to file correct information returns) and [6722](#) (failure to furnish correct payee statements).

In general, the penalties—including increases under the new law—are as follows:

- The penalty for failure to file an information return generally is \$100 (**increased to \$250**) for each return for which such failure occurs. The total penalty imposed for all failures during a calendar year cannot exceed \$1,500,000 (**increased to \$3,000,000**).
- The penalty for failure to provide a correct payee statement is \$100 (**increased to \$250**) for each statement with respect to which such failure occurs, with the total penalty for a calendar year not to exceed \$1,500,000 (**increased to \$3,000,000**).
- Special rules apply that increase the per-statement and total penalties if there is intentional disregard of the requirement to furnish a payee statement, and the waiver of penalty and special rules under IRC [section 6724](#) (including abatement of penalties for reasonable cause) may apply for certain failures.

The law will apply with respect to returns and statements required to be filed after December 31, 2015; the IRS has stated that it **will generally not impose penalties** under sections 6721 and 6722 for 2015 returns and statements filed and furnished in 2016 on reporting entities that can show that they have made **good faith efforts** to comply.

Other Resources

Additional details on the information reporting requirements for self-insuring employers are available in IRS [Questions and Answers](#). More information about the information reporting requirements for large employers subject to "pay or play" is available in separate IRS [Questions and Answers](#).

If you have any questions, please contact: **Nicholas Tafaro**
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IMPORTANT LINKS

- [Affordable Care Act](#) (HHS)
- [COBRA](#) (DOL)
- [Department of Labor](#)
- [Federal Marketplace](#) (HHS)
- [Medicare & Medicaid](#) (CMS)
- [Tax Credits & Deductions](#) (IRS)

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