

WEBINAR SERIES

Affordable Care Act Compliance Reminders for Brokers and Their Clients

June 22, 2022

Today's Presenters



Tim Kelly

Director of Sales & Business Development
PrestigePEO

Tim is responsible for the support, management, and training of the PrestigePEO sales team. He specializes in developing and expanding PrestigePEO's broker channel, managing third-party underwriters, and providing expertise in medical benefits renewal negotiation.



Malcolm Slee

Principal
Groom Law Group

Malcolm advises clients on issues under ERISA, the Internal Revenue Code, and related laws and regulations as they relate to qualified retirement and welfare plans.

Today's Agenda

- About PrestigePEO
- ACA Client Support
- Top 10 Questions Brokers Ask
- Employer Mandate (Code § 4980H) Refresher and What's Changed
- ACA Reporting (Code § 6056) Refresher
- IRS Enforcement of these Requirements

Webinar Forum

All participants are muted.

Please type questions in the side navigation panel and we will try to address most questions during today's session.

Today's presentation will be posted on our Broker page PrestigePEO.com/for-brokers



PrestigePEO

About PrestigePEO

- Celebrating over 23 years in business
- Founded by brokers and employee benefits experts
- Dedicated broker channel partner
- Local presence, national reach, expanding into new markets
- Prestige consistently has a client retention rate of 95%
- Prestige is among the top 1% of PEOs that holds all three of the highest industry accreditations:
 - IRS Certified Professional Employer Organization (CPEO)
 - Employer Service Assurance Corporation (ESAC)
 - WC Risk Management
- NAPEO (National Association of Professional Employer Organizations) member since 1998 - including chairman and board positions. The leading association for PEOs.
- PrestigePEO is endorsed by the American Institute of Certified Public Accountants (AICPA).

PrestigePEO ACA Client Support

- Reporting – PrestigePEO provides 1095-c forms to all eligible employees
 - Clients with PrestigePEO for a full year
- Tracking hours worked by employees to determine if clients are considered applicable large employers under ACA
- General guidance on ACA and applicability

Top 10 Questions Brokers Ask

- 1** Who am I dealing with?
- 2** Do you accept BORs?
- 3** How do you help me win new business?
- 4** How are my clients taken care of?
- 5** How do you help my brokerage become more profitable?
- 6** How do you help my client?
- 7** How is your client retention?
- 8** What happens with client referrals?
- 9** What are my commissions?
- 10** How does our partnership work?



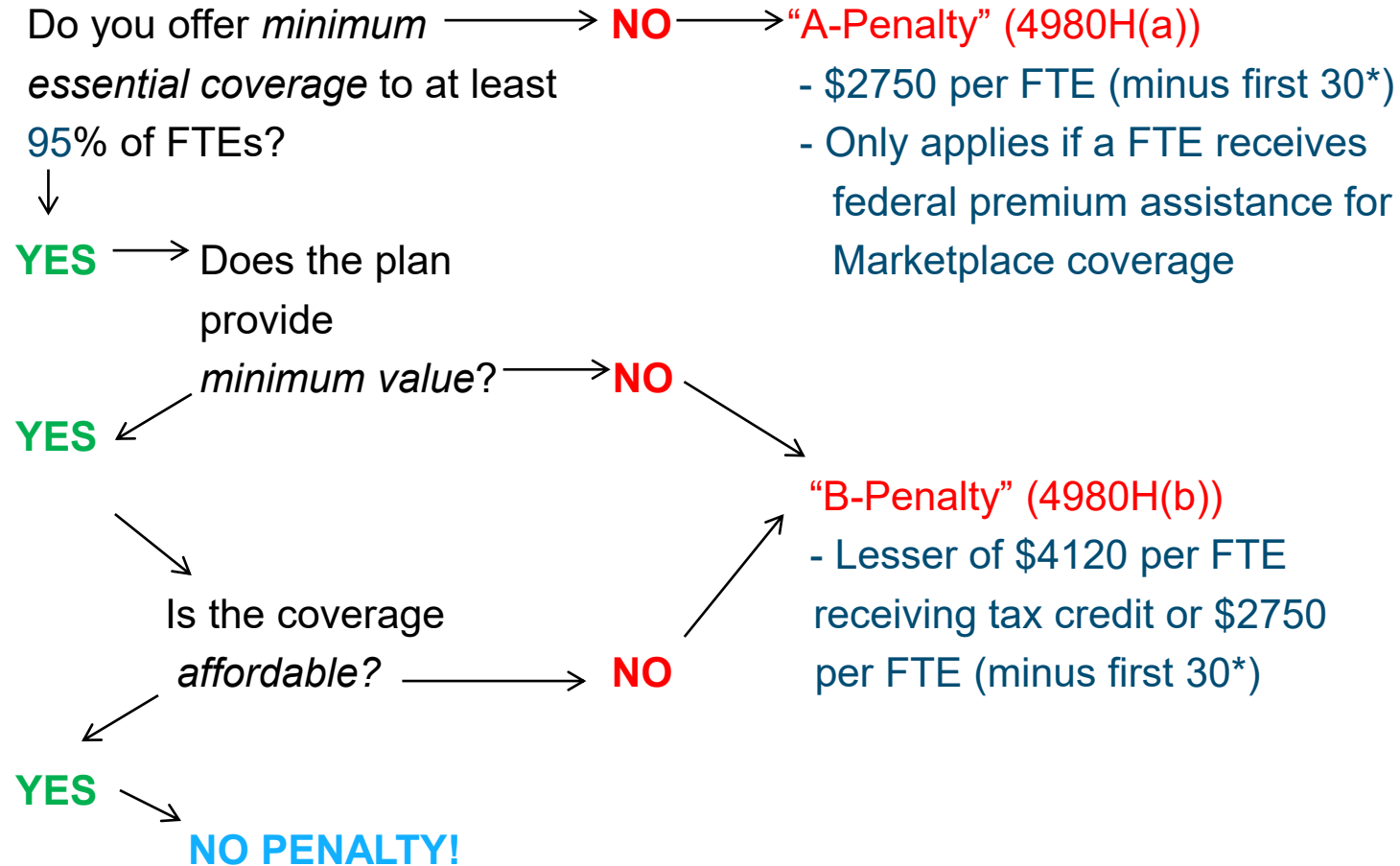
GROOM LAW GROUP

*Employers must **offer** medical coverage that meets certain standards (“minimum essential coverage”) to full-time employees and their dependent children up to age 26.*

Crucial concepts:

- Coverage is “**affordable**” if employee contributions for self-only coverage are **less than 9.61% (for 2022) of the employee’s household income.**
- IRS created three safe harbors that employers can use to assess affordability:
 - Employee’s W-2 wages
 - Employee’s monthly wages (hourly rate x 130 hours per month), OR
 - Federal Poverty Level for a single individual
- A plan must pay **60% of the costs** of covered health services to be considered as providing “**minimum value.**”

Employer Mandate



“A-Penalty” Example - General

- Acme Co. has 125 FTEs in each calendar month of 2022
- Acme Co. opted not to offer any employer-sponsored health coverage in 2022
- Acme Co. receives a Section 1411 Certification for 2022 with respect to at least one of its FTEs
- Acme's A Penalty for 2022= **\$261,250**

\$2,750

(adjusted annual penalty amount for 2022)

x 95

(125 FTEs minus 30-employee offset) = **\$261,250**

“B-Penalty” Example

Facts

- In 2022, Acme offered coverage to 98% of its FTEs... but didn't offer coverage to Frank, an FTE for all of 2022
- Frank purchased individual coverage through an Exchange and received a premium tax credit for 5 months in 2022
- Acme Co. receives a Section 1411 Certification for 2022 with respect to at least one of its FTEs (Frank)

Acme's B Penalty for 2022= \$1,716.67

\$343.33 (i.e., adjusted 2022 monthly penalty amount)

x 5 (i.e., number of months in FTE received a PTC) **\$1,716.67**

6056 Reporting Basics

- Employer mandate reporting
 - Provide the IRS and FTEs with information about an employer's compliance with the employer mandate, minimum value, and affordability
 - Must report for any employee who was FT for at least 1 month in the year
- File with the IRS (generally due March 31 if filing electronically)
 - One Form 1094-C (transmittal)
 - One Form 1095-C for each full-time employee
- Furnish to FTEs one Form 1095-C (generally due 30 days following January 31)

Form 1094-C Reporting– Could Indicate “A Penalty”

120218

Page 2

Form 1094-C (2017)

Part III ALE Member Information—Monthly

		(a) Minimum Essential Coverage Offer Indicator		(b) Non 4980H Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Reserved
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29	June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30	July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

Form 1094-C (2017)

Form 1095-C Reporting- Could Indicate “B Penalty”

600117

1095-C
Form
Department of the Treasury
Internal Revenue Service

Employer-Provided Health Insurance Offer and Coverage
Do not attach to your tax return. Keep for your records.
Go to www.irs.gov/Form1095C for instructions and the latest information.

☐ VOID
☐ CORRECTED

OMB No. 1545-2951
2017

Part I Employee

Applicable Large Employer Member (Employer)

1 Name of employee

2 Social security number (SSN)

7 Name of employer

8 Employer identification number (EIN)

3 Street address (including apartment no.)

10 Contact telephone number

4 City or town

5 State or province

6 Country and postal code

11 City or town

12 State or province

13 Country and ZIP or foreign postal code

Part II Employee Offer of Coverage

14 Offer of Coverage (enter required code)

15 Employee Required Contribution (see instructions)

16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)

Plan Start Month (Enter 2-digit number):

All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

Part III Covered Individuals

If Employer provided self-insured coverage, check the box and enter the information for each individual enrolled in coverage, including the employee. ☐

(a) Name of covered individual(s)	(b) SSN or other TIN	(c) DOB (if SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 60705M

Form **1095-C** (2017)

14

© 2022 PrestigePEO. All Rights Reserved.

 **PrestigePEO**

IRS Employer Mandate Assessment Process- Letter 226J

GROOM LAW GROUP

- Letter 226J is not a formal notice and demand for payment
- The following information is contained in the Letter 226J:
 - A table itemizing the proposed payments by month and indicating whether the liability is for failing to offer any coverage to the appropriate percentage of full-time employees or for failing to offer affordable coverage to certain full-time employees
 - An explanation of the table
 - An employer response form (Form 14764)
 - List of the full-time employees who triggered the employer's assessment (Form 14765)
 - A description of next steps to be taken by the employer – **including responding to the Letter 226J within 30 days of date of letter**
 - A description of actions the IRS will take if the employer does not comply with the directions in the letter
 - The name and contact information of the IRS agent whom the employer should contact with any questions

IRS Employer Mandate Assessment Process- Letter 226J

GROOM LAW GROUP

- If the employer **disagrees** with the assessment, the following options are open:
 - Employers can respond by letter before a formal assessment is made and before the IRS makes a notice and demand for payment
 - The IRS will respond to an employer's letter with a Letter 227.
 - Letter 227 is a series of five different letters that acknowledges the employer's response to the Letter 226J and describes further action to be taken by the employer
 - If the employer continues to disagree with the assessment after receiving Letter 227, the employer may request a pre-assessment conference
 - If the employer fails to respond on time, the IRS will assess the proposed amount and will issued a notice and demand for payment (using Notice CP 220J)

IRS Reporting Penalty Assessment Process

GROOM LAW GROUP

- Penalties can apply for failure to file, failure to furnish, missing a deadline, failure to include all the required information on a return, or including incorrect information on a return
- Presumptive penalty amount is \$280 per return. Cumulative penalties are capped at \$3,426,000 per year
- Note that “double” penalties can apply (e.g., if a return furnished to an employee and filed with the IRS contains incorrect information, the penalty may be \$560, because technically two violations- one for furnishing, one for filing)
- Penalties may be reduced if failures are corrected within a certain time period

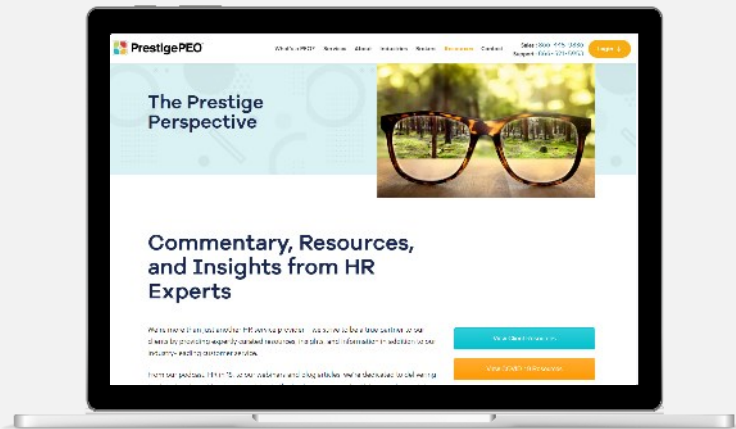
IRS Reporting Penalty Assessment Process

- Previously, there were two potential bases for requesting an abatement of penalties- “reasonable cause” and “good faith.”
- To show “reasonable cause,” must show either:
 - significant mitigating factors with respect to the failure, or
 - failure arose from events beyond the filer’s control
- Also must demonstrate that filer acted in a responsible manner, which generally means that it exercised reasonable care and undertook significant steps to avoid or mitigate the failure.
 - Failure should be corrected as promptly as possible
- Up through the 2020 filing year, the IRS provided penalty relief if the filer could show “good faith” efforts for ACA reporting compliance
- This could apply if a form contained inaccurate or incomplete information
- **However, IRS has confirmed that “good faith” relief no longer applies after the 2020 filing year**
- We are seeing a noticeable increase in IRS penalty assessments relating to ACA reporting requirements



Questions / Comments / Discussion?

Visit Us



You can view today's presentation and video recording by visiting:

prestigepeo.com/for-brokers