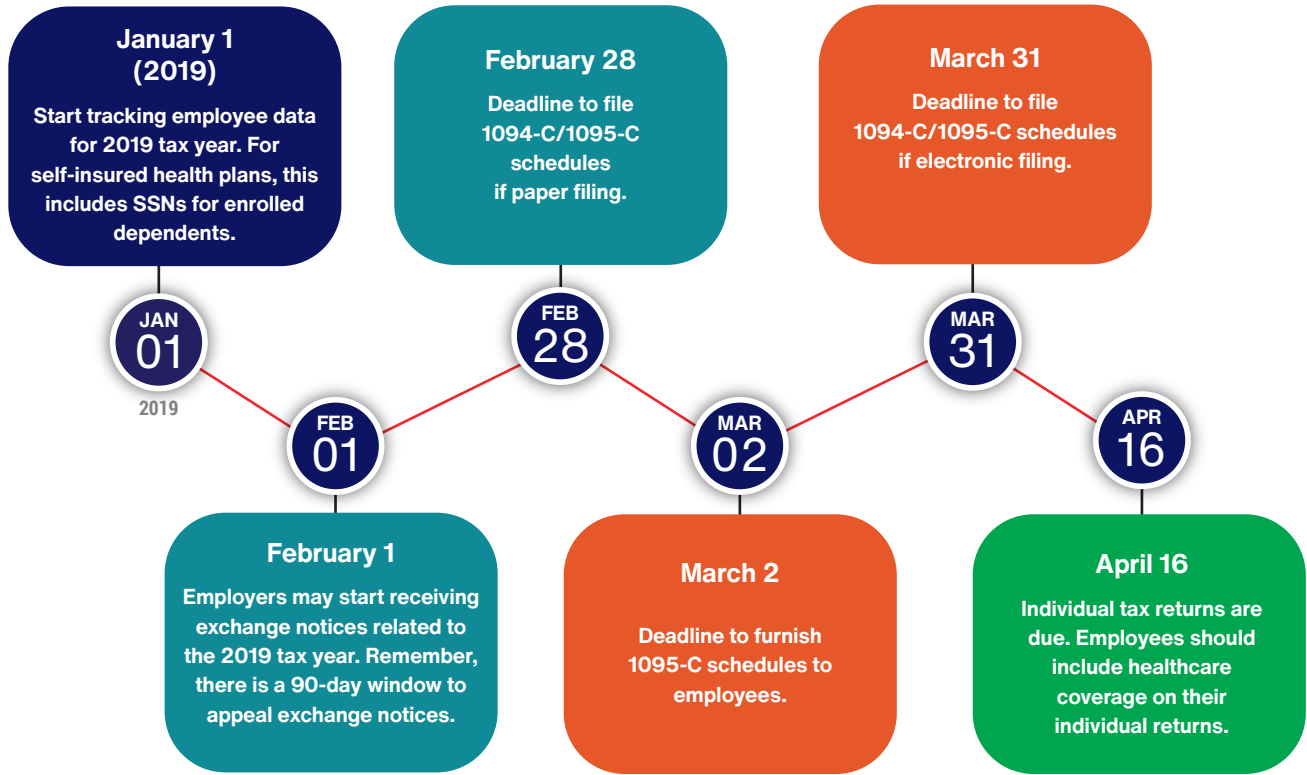


# IRS Filing Dates for 2019 Tax Year

(All dates for 2020 except as noted)



## Employer Filing and Furnishing Penalties

**Failure to File Penalty – IRC 6721: Failure to file correct information returns.** If the return is not filed by the late filing August 1 deadline, the full penalty is assessed per applicable individual return not filed.

**Failure to Furnish Penalty – IRC 6722: Failure to furnish correct payee statements.** If the ACA-mandated health insurance information is not provided to applicable employees by the deadlines established by the IRS, the penalties are assessed per applicable individual not receiving this information.

Time Returns Filed / Furnished	2016	2017	2018	2019
Not more than 30 days late	\$50 per return \$529,500* max	\$50 per return \$532,000* max	\$50 per return \$536,000* max	\$50 per return \$545,500* max
31 days late – August 1	\$100 per return \$1,589,000* max	\$100 per return \$1,596,500* max	\$100 per return \$1,609,000* max	\$100 per return \$1,637,500* max
After August 1 or Not At All	\$260* per return \$3,178,500* max	\$260* per return \$3,193,000* max	\$260* per return \$3,218,500* max	\$270* per return \$3,275,500* max
Intentional Disregard	\$520* per return No limitation	\$530* per return No limitation	\$530* per return No limitation	\$540* per return No limitation

Chart depicts penalties for large businesses with Gross Receipts of More than \$5 Million and Governmental Entities

\* Adjusted for inflation

## Employer Mandate Penalties

### The “A” Penalty – IRC 4980H(a)

#### Employer Shared Responsibility Payment for Failure to Offer Minimum Essential Coverage.

On a monthly basis, applies to each month that the employer failed to offer Minimum Essential Coverage to at least 95% of a company’s full-time employees (and their dependents) AND at least one full-time employee received Premium Tax Credits for purchasing coverage through the Marketplace for that month.

	2015	2016	2017	2018	2019
Monthly Penalty per Employee	\$173.33	\$180.00	\$188.33	\$193.33	\$208.33
Annualized Penalty per Employee	\$2,080.00	\$2,160.00	\$2,260.00	\$2,320.00	\$2,500.00
MEC Offer % of FT	70%	95%	95%	95%	95%
FT Headcount Reduction	80*	30	30	30	30

\*80 FT exemption for 2015 only applied if 2015 ALE “size” was 100 or more

### The “B” Penalty – IRC 4980H(b)

#### Employer Shared Responsibility Payment for Failure to Offer Coverage that Meets Affordability and Minimum Value (assessed if a 4980H(a) penalty is not triggered).

On a monthly basis, applies for every full-time employee that did not receive an offer of coverage or received an offer, but the offer was either unaffordable or did not provide Minimum Value or both, AND the employee received a Premium Tax Credit for that month.

	2015	2016	2017	2018	2019
Monthly Penalty per Employee	\$260.00	\$270.00	\$282.50	\$290.00	\$312.50
Annualized Penalty per Employee	\$3,120.00	\$3,240.00	\$3,390.00	\$3,480.00	\$3,750.00
Affordable Safe Harbor %	9.56%	9.66%	9.69%	9.56%	9.86%
FPL Monthly Amount	\$92.97	\$94.75	\$95.93	\$96.08	\$99.75
FPL Annual Amount	\$1,115.65	\$1,136.93	\$1,151.117	\$1,152.94	\$1,197.00

## ACA Penalty Process

Step 1 Receipt of Letter 226J	Step 2 Form 14764 ESRP Response	Step 3 Letter 227	Step 4 Pre-assessment Conference with IRS	Step 5 Notice CP 220J
<ul style="list-style-type: none"> <li>- Letter attaches Employee Premium Tax Credit (PTC) Listing (Form14765), which reflects names and months of the year employee(s) received subsidies from marketplace/exchange</li> <li>- Letter includes an Employee Shared Responsibility Payment (ESRP) Summary Table, which identifies the amount of penalties to be assessed on employer</li> <li>- Employer must respond within 30 days of receipt of the letter</li> </ul>	<ul style="list-style-type: none"> <li>- Form used to respond to Letter 226J</li> <li>- Employer can contest imposition of penalties for one or more employees</li> </ul>	<ul style="list-style-type: none"> <li>- Acknowledges receipt of employer’s response (five versions available)</li> <li>- Identifies next steps for employer to follow</li> </ul>	<ul style="list-style-type: none"> <li>- Employer can request conference with the IRS Office of Appeals if the employer disagrees with the contents of Letter 227</li> <li>- Employer to review IRS Publication 5 to file an appeal</li> <li>- Appeal to be filed within 30 days of the receipt of Letter 227</li> </ul>	<ul style="list-style-type: none"> <li>- Notice requiring employer to pay penalties, issued after end of appeals process, or if employer fails to respond to Letter 226J or Letter 227</li> <li>- Notice will instruct employer the amount to pay and how to pay penalty</li> </ul>

## Review Your ACA Data Monthly

Best practice for ACA compliance to prevent IRS penalty assessments is to incorporate a monthly ACA Compliance process. Why? Because the IRS assesses penalties for ACA non-compliance based on monthly compliance information provided in your annual ACA information filing. The best way to avoid penalties is to address any compliance issues monthly.

### Your monthly ACA process is formulated around these three areas:



#### Regulatory Knowledge:

A complete understanding of the mechanics of the ACA is required. If employers do not have staff members who have this deep level of understanding of the ACA, consider hiring third-party consultants who have intimate knowledge of ACA regulations, and understand how to interpret and take action in accordance with the requirements of the law. Mastery of ACA regulatory concepts, such as IRS Approved Measurement Methods, Affordability Safe Harbors, and Limited Non-Assessment Periods, can come in handy as you navigate monthly compliance, particularly if you want to minimize or eliminate penalties.



#### Documentation and Record-Keeping:

Monthly ACA compliance relies heavily upon supporting documentation in order to be “audit ready” in case you receive a penalty assessment from the IRS. Documentation should include items such as Summaries of Benefits and Coverage, rate contribution sheets, offers of coverage, medical invoices, enrollment forms, waiver forms, and acknowledgment of offers for the relevant reporting year.



#### Data Quality Management:

This relates to the management of your workforce (HR) data. The raw inputs matter. Data fields, such as census information, time & attendance, employment type, wage and rate information, as well as contribution structure, must be accurately tracked in order to comply with the ACA. For some employers who also use paper files, unstructured HR data is another factor to consider. In the end, the analytical data outputs are only as good as the quality of the raw data inputs that feed into the calculations required to meet ACA regulations to avoid IRS penalties. This is particularly true if you use do-it-yourself software packages which will automatically complete IRS forms without checking if the data being used is accurate. This is a significant trigger of ACA penalties issued by the IRS.

Organizations should consider the Triangle of Trustsm when handling their data quality management in regards to the ACA. The Triangle of Trustsm is the intersection of data, analytics and regulatory expertise necessary to move raw data to successful regulatory compliance.



#### Workforce Data:

Successful application of the Triangle of Trustsm for ACA compliance starts with workforce data, such as HR data, time and attendance data, payroll data, and health benefits data. These data are frequently scattered across various siloed databases and platforms. Processes must be in place to ensure that this data is aggregated into a “Single Source of Truth” to ensure data accuracy.



#### Analytics:

Once you’ve validated your data, it must be analyzed properly to perform key ACA calculations. Understanding how to interpret data so that it answers the requisite questions is critical to a successful ACA filing to the IRS. Organizations must have the right information and processes to correctly interpret data.



#### Regulatory Expertise:

Given the severity of the financial risk of regulatory non-compliance, you want people reviewing your data who have a deep knowledge of applicable regulations and how to correctly apply them to your data.

**Failure to perform an Aggregated Employer Group Analysis:**

Failure to accurately group related entities under the ACA can result in significant IRS penalty assessments. In many instances, organizations may not be an ALE in their individual capacity but when they are grouped together at the conclusion of an Aggregated Employer Group Analysis, they form one and thus the responsibilities of the ACA's Employer Mandate may apply.

**Failure to Apply the Appropriate IRS Approved Measurement Methodology:**

There are two different IRS approved measurement methods and certain workforces will benefit dramatically from one or the other. Failure to apply the measurement method correctly for your organization could result in inaccurate full-time counts and significant ACA penalty assessments from the IRS.

**Health Benefits not Considered:**

Perhaps one of the most obvious things to be mindful when complying with the ACA are the details about the health plan(s) your organization is administering to your employees. Ensure documentation is available substantiating the quality of the health plan, the cost, who it was offered to and for what time frames, and who elected to enroll. Also account for special plan arrangements such as flex credits, opt-out payments, and HRAs.

**Inaccurate Tracking of Employment Periods:**

The time frames in which your employees provide hours of services are incredibly important when determining ACA full-time status. Hire, rehire, and termination dates in addition to any breaks in service, are critical for calculating ACA full-time status. Track this information accurately.

**Misclassification of Employees:**

Organizations need to ensure that they are classifying their employees with the appropriate classifications. Full-time, part-time, variable hour, and seasonal classifications all have different meanings in an ACA context. Classify them correctly!



**Don't avoid your ACA Employer Mandate responsibilities. Ask us about a no-cost ACA Penalty Risk Assessment performed to learn your potential IRS penalty exposure.**

To learn more, contact: