This CE Brought to you by Texas Association of Health Underwriters

Course ID: 127724

For Questions or Comments Please contact admin@TAHU.ORG


TASC®
ACA Reporting
2021 and Beyond…
Carla Adams, CBC, CLTC, GBA

ACA Reporting 2021 and Beyond...

- Introductions
- Brief history of ACA reporting
- Where are we now
- Review of in-force requirements
- Review of penalty assessments
- Best practices for avoiding ACA penalties
- Q&A


TASC
ACA Reporting 2021 and Beyond…
From where we've been to where we are now!

PPACA

Signed by President Obama March 23, 2010

- Amended by the Healthcare and Education Reconciliation Act, March 30th of 2010
- The ACA has experienced numerous delays, changes and court challenges since 2010

Court Challenges

ACA

9-840 California et al V. Texas et al

Kelley et al V. Azar et al

Where Are We Now?

The ACA is in-force….

- **Pre-x protections are still in place**
- **MLR Requirements are still in place**
- **The Healthcare Exchanges are still operating**
- **The employer mandate is being enforced**
- **Minimum Essential Coverage is still required (ALE’s)**
- **Essential Health Benefits**
- **Minimum Value**
- **Affordability**
- **Employer Reporting is still required**
- **Employer Reporting is being enforced, penalties issued**
- **The individual mandate remains…..but it’s been zeroed out…so no penalty**
- **There are continual changes, delays, amendments to various provisions**

ACA Reporting 2021 and Beyond…

Review of In-force Requirements

Employer Requirements:

- **Employer Mandate** (ESRP/MV/MEC)
  - Applicable Large Employers (ALE's)
  - 50+ Full-time Equivalents (FTE's)
  - **Offer coverage that is…**
    - Minimum Essential Coverage
    - Minimum Value
    - Affordable
  - **Or pay a penalty**
    - **A penalty**
      - I did not offer MEC to 95% of my FTE's
    - **B penalty**
      - I offered MEC, but maybe not MV or affordable
      - B penalty applies then when EE's go to the exchange and qualify for a subsidy

Reporting Requirements

- **1094/1095 Reporting**
  - All providers of coverage will complete the **"B"** forms
  - All ALE's (Averaged 50+ FTE) will complete the **"C"** forms
  - Who?
    - Providers of Coverage are insurance carriers **OR** employers (non-ALE) with a level funded or self-funded health plan (Self-Funded ALE's will complete the C forms and complete Part III)
    - **ALL ALE's HAVE TO REPORT, EVEN IF THEY DID NOT OFFER ANY COVERAGE!**

- **PCORI**
  - **Health Insurers**
    - **These fees are handled by the carrier**
  - **Self-Insured Employers**
    - **Self-Funded Health Plan**
    - **Level-Funded Health Plan**
    - **HRA***

Who is an “Employee”

Who am I reporting for if I am an **ALE**?

- **Typically someone receiving a W-2**
- These are individuals are generally **exempt** or not considered employees for reporting purposes:
  - Leased Employees (in general, some exceptions may apply)
  - Sole Proprietors
  - Partner in a Partnership
  - More than 2% Shareholder in a Sub-S Corp
  - Employees residing and working outside of the US

Affordability Safe Harbors 2021

- Affordability
  - Three “Safe Harbors” for calculating affordability under the PPACA
    - W-2 Method
      - Employee share cannot exceed 9.83% (2021) of the employees’ box 1 W-2 wages
    - Rate of Pay Method
      - Employee share cannot exceed 9.83%(2021), based on rate of pay x 130 hours
    - FPL Method (Federal Poverty Line)
      - Employee share cannot exceed 9.83%(2021) of the FPL from the prior year $12,760.00 (2017), or no more than **$104.53** per month.

NEW: ICHRA Codes for ACA Reporting

1095 B- Must use code “G” on line 8 to indicate offer of ICHRA

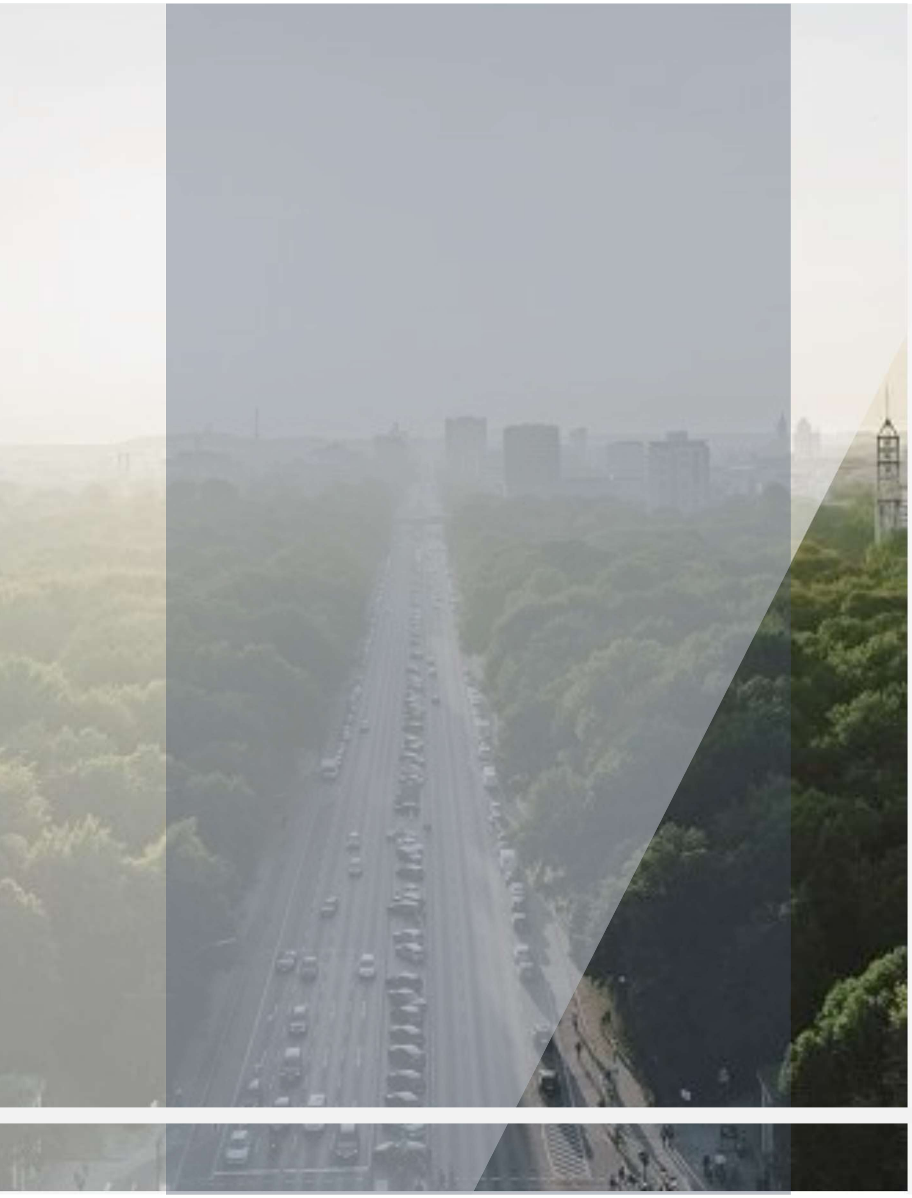
1095C- New Offer Codes

- 1L Offered to EE only with affordability determined by EE/PR/Zip
- 1M Offered to EE/Dep (no spouse) with affordability determined by EE/PR/Zip
- 1N Offered to EE/Dep/Spouse with affordability determined by EE/PR/Zip
- 1O Offered to EE only with affordability determined by EE/WL/Zip
- 1P Offered to EE/Dep (no spouse) with affordability determined by EE/WL/Zip
- 1Q Offered to EE/Dep/Spouse with affordability determined by EE/WL/Zip
- 1R ICHRA that is not affordable offered to EE/DEP/Spouse or combination of
- 1S ICHRA offered to an individual who is not a FT employee
- 1T-1Z Reserved for Future Use

- Age- If ICHRA is offered, must enter Age in part II of form (for affordability determinations)
- Zip Code- If ICHRA offered, must enter zip code, for determination of lowest cost Silver plan

Timelines

- Standard Timeline:
- Employee Forms are typically due by **1/31**
- Employers with fewer than **250** forms reporting on paper must report to IRS by: **2/28**
- Employers with more than **250** employee forms, required to file electronically must report to IRS by: **4/2**



COVID-19 Impacts

- IRS Extended Deadline to provide1095 forms to EE's to March 2nd 2021 (*2020)
- IRS Extends Good Faith Effort Relief for Employer 2020 Reporting
- PCORI Funding goes to COVID-19 related research
- Remains to be seen if further extensions will occur for 2021 reporting in 2022

Proposed IRS Rule Change for Reporting

- Federal Register Doc. # 2021-15615
  - Proposed rule, response to the Taxpayer First Act (2019)
  - Purpose, Increase electronic filing
  - Prescribes standards upon those required to file certain types of electronic returns
  - Two primary changes impacting our world:
    - Required aggregation of returns for electronic filing threshold
    - Electronic filing threshold lowered
      - 100 in 2022
      - 10 in 2023

Proposed Ideas to streamline reporting:

- Voluntary prospective reporting system
  - Would allow IRS to access a data hub and now allow for erroneous tax subsidies
- Only requiring data on individuals who receive a subsidy on the exchange, versus all employees
- Streamline data reported
- Allow electronic reports to employees without signed approval


TASC
ACA Reporting 2021 and Beyond…
Review of Penalty Assessments

ACA Penalty Assessments

Over 4.4 Billion in the 1st year of enforcement letters alone….

- 4980H(a) Penalties
- 4980H(b) Penalties
- Reporting Penalties

Penalties: Reporting Failures

Penalties apply PER return, or in other words per form:

Employer -A has 75 employees, but based on turnover they have a total of 82 forms they must file, as well as furnish to employees/former employees, so a total of 164 forms. Based on the information provided below, their estimated penalty if they waited past August 1 to file would be- $45,920

File a complete and accurate return not more than 30 days late:

- $50 per return
- 545,500 annual max (based on gross receipts)

File a complete and accurate return after 30th day but before August 1:

- $100 per return
- $565,$1,696,000 annual max (based on gross receipts)

File a complete and accurate return after August 1:

- $280 Per Return
- $3,392,000

INTENTIONAL DISREGARD:
$560 Per Form with NO CAP

Reporting Enforcement

- IRS Letter 5699
  - Request for Employer Reporting Offers of Health Insurance Coverage
    - These letters started being mailed out in Spring/Summer of 2017 for the 2015 reporting year
    - The letter indicates that based on IRS records, the IRS believes this entity “May” be an Applicable Large Employer (ALE), AND therefore required to report via forms 1094C/1095C
    - The IRS did not receive reporting forms for the company addressed in Letter 5699
    - The employer has 30 days to respond with evidence they were not required to report OR with the required reporting forms
    - A penalty is likely to be assessed unless they can show reasonable cause for failure to file

Reporting Enforcement

- IRS Letter 972CG
  - When might one get a IRS 972CG Letter related to ACA Reporting?
    - Late Filing
    - Unresolved TIN Validation errors
    - Failing to file electronically when required

Mandate Enforcement

- IRS uses 1094/1095 Reporting to gather data for enforcement of the PPACA Mandates
- Letter 226J is used to request payment from employers that:
  - 1) Had an employee with 1411 Certification
  - 2) Filed 1094/1095 Reporting forms
  - 3) Failed to properly indicate on reporting forms that they were compliant with the employer mandate
- Letter 226J Indicates:
  - Employer may have failed to offer required coverage OR
  - Employer may have made mistakes on the 1094/1095 Reporting forms
  - Employer “MAY” owe an “Employer Shared Responsibility Payment” based on the information provided via 1094/1095 Reporting, and any applicable 1411 Certifications for said group
  - The employer is given 30 days to respond
  - The employer is given the option of accepting the assessed payment and submitting or providing evidence that they should not be subject to the payment

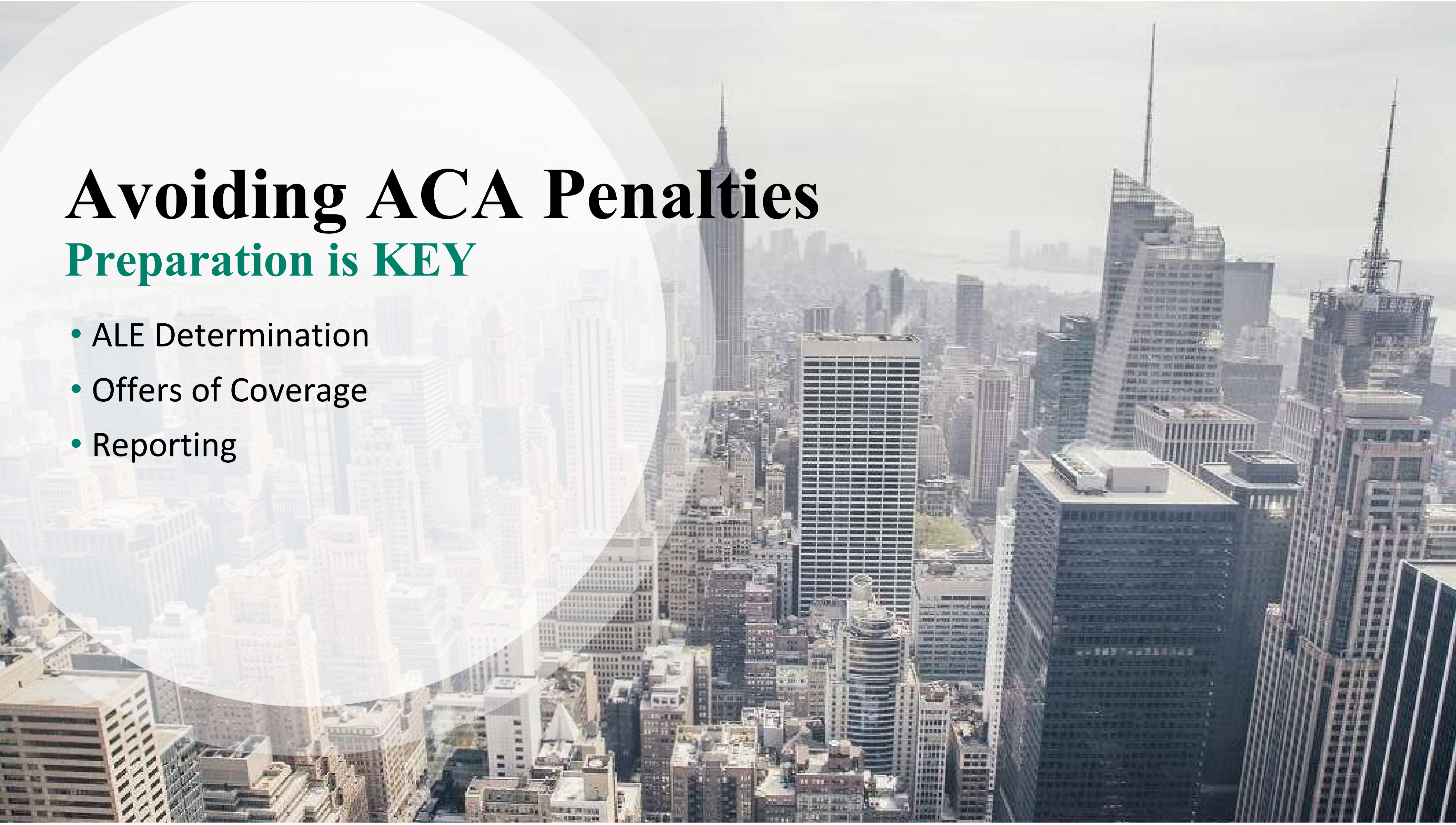
ACA Reporting 2021 and Beyond…

Avoiding ACA Penalties

Avoiding ACA Penalties

Preparation is KEY

- ALE Determination
- Offers of Coverage
- Reporting




TASC®
THANK YOU
www.tasconline.com | Carla.Adams@tasconline.com