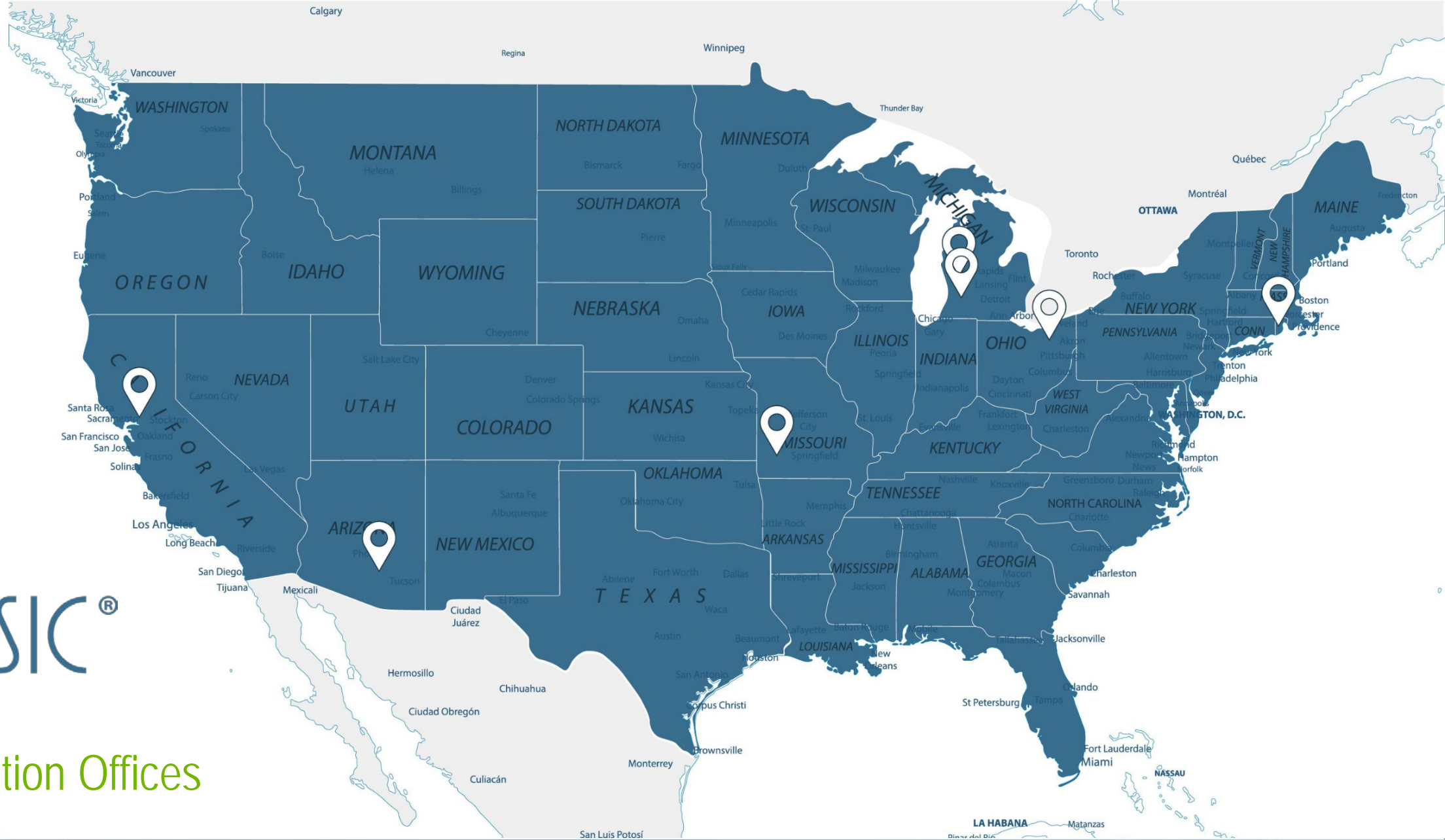




ACA FILING



BASIC is a technology driven HR compliance Company



Administration Offices



BASIC family of companies includes;

- BASIC pacific
- BASIC NEO
- BASIC New England

Technology Driven HR Solutions to Take Your Company Further



HR Solutions should be simple. **Keep it BASIC.**

➤ Agenda

- ✓ What's New / Changed for 2018
- ✓ Common Employer Mistakes
- ✓ IRS 226J Letter - Employee goes to the Exchange
- ✓ ESRP Penalty Assessment
- ✓ We didn't report... Soooo what happens... IRS 5699 Letter
- ✓ What's important for Payroll

What's new and what's not?

Extended Deadline for Deliver of Employee Forms

ACA Requirement

- 1095 C forms delivered to employees
- Paper Filing with IRS
- eFiling with IRS

Employer having 250 or more 1095-C forms are required to file electronically

Deadline Date

- 1/31/2019
- 2/28/2019
- 4/1/2019

IRS Notice: 2018-06

Includes extension of 6721 & 6722 "Good Faith Penalty Transition Relief" 2017 for 2017 Filing year.

Extended Date

- March 4, 2019
- No Change
- No Change

Don't expect ACA reporting to go away anytime soon.

➤ What's New

6721 & 6722 “Good Faith Effort” Transition Relief

- The IRS has extended “good faith transition relief” for the 2018 reporting year.
 - Similar to past years - the IRS did not penalize employers for incorrect or incomplete 1095-C and 1094-C forms, as long as they were able to prove that a “good faith” effort was made to comply with the ACA requirements. This is no longer the case. *(Reference IRS notice 2018-06)*

➤ What's New

Individual 1040 Tax Returns

- The IRS will not process individual tax returns filed electronically unless taxpayers indicate whether they have health coverage.
 - 2018 is the First year the IRS will not accept (or process) tax returns that omit this information.
 - Paper tax returns that do not confirm may be rejected and any refunds due could be delayed.
 - Employees are required to receive a 1095-C form from their employer to complete their 1040 Tax Form. Individual penalty remains in place for 2018 – no individual penalty in 2019.
 - 1095-C form is not filed with the Individual 1040 Tax form.

➤ Affordability Changes

- Employers need to confirm that the employee premium portion for self only coverage is affordable.
- 2018 affordability percentage is 9.56% -
- “Box “1” of W-2 Wages – (2F)
- 130 hours x Hourly Rate of Pay (at time starting the current plan year) –(2H)
- Federal Poverty - (1A / 2G)

Plan Calendar Year	Prior Year's Federal Poverty Level	Affordability Percentage	Maximum Monthly Contribution (Self Coverage)
2018	\$ 12,140	9.56%	\$ 96.72
2017	\$12,060	9.69%	\$ 97.38
2016	\$ 11,880	9.66%	\$ 95.63
2015	\$ 11,770	9.56%	\$ 93.77

Sources: US Department of Health & Human Services

➤ Common Employer Mistakes

1. Provide affordable coverage that meets minimum value to all full-time eligible employees
 - Employers often don't understand how to determine affordable coverage
2. Manage Employees by class of employees
 - who is a Seasonal Employee?
 - Difference between Seasonal "Employee" / Seasonal "Worker"
3. Actively manage employee eligibility for the entire calendar year
4. Timely offer Affordable MEC/MV Health Benefits to full time employees
(working 30 or more hours weekly)

➤ Update on 1094-C and 1095-C Forms & Filing

- No substantive changes from last year
- Transition relief that no longer applies is removed
- Union multiemployer plan relief continues
- Plan start month box still optional

➤ Reminders From 2017 Forms

- Conditional offer to spouse
 - If spouse's offer of coverage is conditioned on not being eligible for other employer coverage, there are two new indicator codes for Line 14
 - If they rely on qualifying offer in Line 14 leave Line 16 blank or complete
 - **1J** - Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage conditionally offered to spouse; minimum essential coverage **not offered to dependent(s)**.
 - **1K** - Minimum essential coverage providing minimum value offered to employee; **at least minimum essential coverage offered to dependents; and at least minimum essential coverage conditionally offered to spouse.**

➤ Reminders From 2017 Forms

- COBRA
 - If FT employee terminates during the year and is offered COBRA, whether elected or not, reported for remaining months on 1095-C as no offer (Line 14-1H) and not employed (Line 16-2A)
 - If terminate during month, use 2B on Line 16 for month of termination

➤ Affordability

- The IRS previously indicated that employers who provide additional compensation to employees who opt out of group health coverage may be required to include that amount when measuring for affordability for pay or play penalty purposes
- **Under most recent guidance the IRS says:**
 - This rule will not apply for opt-out arrangements in effect on or before December 16, 2015
 - In addition, **this rule will not apply to opt out arrangements which require employees to provide reasonable** evidence that the employee, spouse and dependents have other group health coverage for period during which coverage is being waived

➤ The Payroll Challenges

- Maintain current employee addresses on file
- Understand that the SSN verification system for ACA reporting is **“not the same”** as it is for Payroll (More restrictive – Less forgiving).
 - Employee Name (as it appears on the SS Card should be used for payroll purposes (potential rejection especially for foreign nationals)
- Maintain “accurate” Hire & Termination Dates as part of EE payroll record
 - Inactive employee status does not transition over to ACA filing
- Maintain Employee Status Information Uniformly
 - Full time / Part Time / Seasonal Worker / Seasonal Employee / Variable Hour Employee
 - Change employee status as applicable on payroll records – **By Date of event**
- Uniformly cross reference job titles with Employee Status or Classes:
 - Examples: Manager FT / Manager PT; Hrly. Maintenance FT or PT
 - Define part-time as less than 30 hours weekly...

➤ From the Employee's Side

2018 is the First Year – 1095-C information important for Individual 1040 Tax filings.

- Employees who file electronically will need to complete medical coverage information on their Individual 1040 form or their filing may be rejected. 1040 forms that are mailed, filings and refunds may be delayed.
- Individual Penalties for not having health coverage are in place for 2018. No penalties for not having health coverage commence in 2019.
- Employees who “waive health coverage” offered by the employer may claim that the employer sponsored plan is not affordable and the employee receives a subsidy from the State/Federal Exchange for self or family coverage.
- If employer makes an offer of affordable coverage and employee declines group health benefits, the employee may end up paying the subsidy back to the feds (not get a tax refund).

➤ From the Employer Side

So, an employee goes to the Exchange – what happens next.

1. IRS is doing random reviews / audits of past employer filings
 - Started with 2015 and now reviewing 2016 Filings
 - If captured during an IRS internal review – inaccuracies in employer 1094-C may trigger a review of the State Exchange Data files (for employees who opted for Health benefits from the exchange and received a subsidy)
2. Employees who went to the exchange and received a subsidy indicated the employer did not make them an affordable offer of coverage
 - Was the employee full time or part-time?
3. Did the employer file a 1094-C w/1095-C forms?
 - If FT, then possibility that the employer will receive an IRS penalty notice.
 - So how does the IRS know if I was supposed to file a 1094-C or not?
 - They don't know for sure but gather data from employees who seek coverage from Fed/State Exchanges.

Also, Employer federal business tax records and state payroll records are clear indicators on the 'estimated' number of employees working for an employer.

Initial Tax penalty notices sent to employers are "inquiries" and not an actual penalty \$\$\$

➤ Employer Shared Responsibility Payment (ESRP)

ESRP Notices | ACA
What happens if.....



Employer Shared Responsibility Provisions

ALEs must

- Offer **Affordable** Minimum Essential Coverage (MEC) health coverage providing Value to their full-time (FT) employees and at least Minimum Essential Coverage to their dependents

or

- Potentially be subject to an employer shared responsibility payment

Liability exists if employer (ALE):

- **(a) Penalty:** Employer does not offer coverage to at least 95% of FT employees (and their dependents) and at least one FT employee receives a premium tax credit (PTC) \$2,000 Penalty Xs all FTE -30).

or

- **(b) Penalty:** Employer does offer to 95% of FT employees (and their dependents), **but at least one FT employee receives the PTC** because, for that full-time employee, coverage was
 - not offered
 - unaffordable, or
 - did not provide minimum value

➤ IRS Enforcement of Pay or Play Penalty – Letter 226J

- In most cases, the employers who are receiving the notices appear to have inaccurately completed their IRS Form 1094-C transmittal form regarding whether the employer offered coverage to at least 70% (2015) / 95% (2016 and after) of its full-time employees

➤ IRS Enforcement of Pay or Play Penalty – Letter 226J

- The IRS notice will list one or more employees who went to the exchange and received a premium tax credit, triggering the penalty
- If the “a” penalty does not apply, the employer can still be subject to the “b” penalty is (\$3,000 for each full-time employee who was not offered affordable, minimum value coverage and who received a premium tax credit)

➤ ESRP Assessment and Payment

- **IRS will send the Employer an inquiry notice:**
- IRS will check to see if the employer filed a 1094-C Form for that Year (*2015 & 2016 is what they are checking now*)
- **A 226J Letter** - Notice w/ “**Proposed**” Penalty Amount will be sent to the employer
 - - Employer has 30 days to respond (can be extended an additional 30 days)
- **Form 14764** - Opportunity to agree, reduce penalty or state no penalty due & to identify an authorized representative to contact IRS
 - Optional – Form 2848 POA (can be used but not necessary to respond to the 226J Notice)
- **Form 14765** - Lists Employees who went to the exchange & received a subsidy

- Note: If Employer fails to respond to the 226J Letter / Notice the IRS will:
- Send a reminder notice allowing 15 days to respond
- Asses the penalty

- **Final step:** if you disagree with proposed or revised ESRP payment
- Request a pre-assessment conference
- Ask the IRS office of Appeals to review the case

➤ 5699 Letters Reporting Penalties

- IRS can assess \$270 penalty per return for late, incomplete or incorrect forms
- IRS granted relief for incomplete or incorrect returns for prior years if good faith effort
- IRS has not indicated it will extend good faith relief to 2018 reporting (due in first quarter of 2019)

➤ ESRP Assessment and Payment

Dear Employer,

We have made a preliminary calculation of the Employer Shared Responsibility Payment (ESRP) that you owe.

Proposed ESRP **\$2,678,000.00**

Our records show that you filed one or more Forms 1095-C, Employer-Provided Health Insurance Offer and Coverage, or one or more Forms 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage, for one or more months of the year at least one of the full-time employees was certified as being allowed the premium tax credit (PTC) on his or her individual income tax return information. We are proposing that you owe an ESRP for one or more months of the year.

You generally owe an ESRP for a month if either:

- You did not offer minimum essential coverage (MEC) to at least 70% of your full-time employees and at least one of your full-time employees was certified as being allowed the premium tax credit (PTC) on his or her individual income tax return information.

ESRP Summary Table

Month	Information Reported to IRS					f. Applicable IRC Section 49801 provision	g. Monthly ESRP amount
	a. Form 1094-C, Part III, Col (a) Minimum essential coverage offer indicator offered to at least 70%	b. Form 1094-C, Part III, Col (b) Full-time employee count for ALE member	c. Allocated reduction of full-time employee count for IRC Section 49801(a)	d. Count of assessable full-time employees with a PTC for IRC Section 49801(a)	e. Count of assessable full-time employees with a PTC for IRC Section 49801(b)		
Jan	No	1,575	30	5	-	49801(a)	\$ 267,800.00
Feb	No	1,575	30	17	-	49801(a)	\$ 267,800.00
March	No	1,575	30	18	-	49801(a)	\$ 267,800.00
Apr	No	1,575	30	13	-	49801(a)	\$ 267,800.00
May	No	1,575	30	7	-	49801(a)	\$ 267,800.00
June	No	1,575	30	5	-	49801(a)	\$ 267,800.00
July	No	1,575	30	2	-	49801(a)	\$ 267,800.00
Aug	No	1,575	30	1	-	49801(a)	\$ 267,800.00
Sep	No	1,575	30	1	-	49801(a)	\$ 267,800.00
Oct	No	1,575	30	1	-	49801(a)	\$ 267,800.00
Nov	No	1,575	30	-	-		\$ -
Dec	No	1,575	30	-	-		\$ -
Total Proposed ESRP							\$ 2,678,000.00

Letter 226J (10-2017)
Catalog Number 67905G

➤ ESRP Assessment and Payment

Indicate Your Agreement or Disagreement		
Agreement with proposed assessment		
<input type="checkbox"/> I consent to the assessment and collection of the proposed assessment of the ESRP in the amount of \$2,678,000.00.		
Signature	Date	
Print name and title of the person who signed above		
Partial/Total disagreement with proposed assessment		
<input type="checkbox"/> I disagree with part or all of the proposed assessment of the ESRP		
Indicate Your Payment Option <i>(Check all that apply)</i>		
<input type="checkbox"/> Full payment using EFTPS on _____		
<input type="checkbox"/> Partial payment using EFTPS on _____		
<input type="checkbox"/> Enclosed full payment of \$2,678,000.00		
<input type="checkbox"/> Enclosed partial payment of \$ _____		
<input type="checkbox"/> No payment		
<ul style="list-style-type: none">• Write your employer ID number 20-5219209, the tax year 2015 and ESRP on your payment and any correspondence.• Make your check or money order payable to the United States Treasury.		
Catalog Number 68861Z	www.irs.gov	Form 14764 (4-2017)

➤ IRS 5699 Letter / 5698 Follow-up Letter

What happens if I did not file a 1094-C in 2015 or other years (like 2016 and 2017)? Am I in IRS Trouble?

Answer: Maybe Yes / Maybe no (right now).

IRS is currently doing a random review of employers – Based on estimated number of employees to determine if there should be an 1094-C on file for that employer for the year (2016 at Present is what IRS is checking).


OR

An employee went to the exchange and obtained coverage and possibly a subsidy: telling the exchange that you (the employer) did not offer them affordable health benefits.

The IRS is randomly checking individuals who went to an exchange and received a subsidy – back checking their employer filings to determine if a 1094-C was filed for that year. (In this case, the IRS is checking 2015 & 2016 filing years).

What happens next: IRS issues a 5699 “Inquiry” Letter to the Employer – if the employer does not respond to the 5699 Letter, a follow up IRS letter (5698) will be sent. If the employer fails to respond to this letter, the next step is..... a CP220J “penalty notice” is sent requiring payment of the penalty.

➤ IRS 5699 Letter

 Department of the Treasury
Internal Revenue Service
1973 North Rulon White Boulevard
Ogden, UT 84201-0062

Date: August 22, 2018
Taxpayer ID number: 27-3340501
Tax year: 2016
Person to contact: 680311 Response Unit
Contact ID number: L9599
Contact telephone number: 877-671-4712
Contact e-fax number: 877-792-2723

Dear Employer:

Our records show you may have been an Applicable Large Employer (ALE) in 2016 and therefore required to file certain information returns for 2016. We haven't received those returns for the taxpayer ID number shown at the top of this letter.

Internal Revenue Code (IRC) Section 6056 requires employers that are ALEs to file information returns with the IRS and provide statements to their full-time employees relating to the health insurance coverage, if any, the employer offered its full-time employees. ALEs meet these reporting requirements using Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Return, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage.

How to know if you're required to file

In general, an employer is an ALE for a year (and thus subject to the reporting requirements) if it had an average of 50 or more full-time employees (including full-time equivalent employees) during the preceding calendar year. For this purpose, there are specific definitions of full-time employee and full-time equivalent employee, exceptions for certain seasonal workers and employees with TRICARE or Veterans Administration health coverage, and specific rules for employers that are members of an aggregated group under IRC §§ 414(b), (c), (m) or (o). For more information on these rules and other information about how to determine if you were an ALE in 2016, visit the ACA Information Center for Applicable Large Employers (ALEs) at www.irs.gov, keyword "ALEs."

Employers required to file at least 250 Forms 1095-C generally must file electronically. Other employers may file either electronically or on paper. You can find the 2016 Forms 1094-C and 1095-C and Instructions for Forms 1094-C and 1095-C, which includes information on how to file returns with the IRS, at www.irs.gov at the top of the screen select "Forms & Pubs," under the "Browse" heading choose "List of Prior Year Forms & Pubs" and in the "Find" box enter "1094-C" or "1095-C," as applicable.

Letter 5699 (Rev. 6-2018)
Catalog Number 68386P

What you must do

Check the box below that applies and mail your response to us to the address shown at the top of this letter within 30 days from the date of this letter.

- I was an ALE for calendar year 2016 and already filed Form 1094-C and Forms 1095-C with the IRS using the following name _____ and employer identification number (EIN) _____ on date _____
- I was an ALE for calendar year 2016 and have included my Form 1094-C and Forms 1095-C with this letter. (Do not use this box if you are required to file electronically.) (Explain reasons for late filing below under "Other")
- I was an ALE for calendar year 2016 and **will file my Form 1094-C and Forms 1095-C with the IRS** using the following name _____ and EIN _____ by date _____ (If more than 90 days from the date of this letter, explain below under "Other") (Explain reasons for late filing below under "Other")
- I was not an ALE for calendar year 2016. Explain reasons below under "Other".
- Other (Indicate below or attach a statement explaining why you haven't filed the required returns and any actions you plan to take.)**

Senior management was not aware that the 1094-C was not completed - We have


contracted with a 3rd party to completed they filing within the next 90 days.

If you're required to file and furnish information returns under IRC Section 6056, failure to do so may result in the assessment of penalties under IRC Section 6721 for failure to file and IRC Section 6722 for failure to furnish information returns.

When responding to this letter, please include your contact information, including a daytime telephone number and the best hours to reach you.

If you have questions, please use the contact information at the top of the first page of this letter.

Sincerely,



Operation Manager

Letter 5699 (Rev. 6-2018)
Catalog Number 68386P

➤ 5698 IRS Follow up Letter

 Department of Treasury
Internal Revenue Service
1973 North Rulon White Boulevard
Ogden, UT 84201-0062

Date: 5/13/2018
Taxpayer ID number (last 4 digits): XX-XXXX8743
Tax year: 2016
Person to contact: 49801 Response Unit
Employee ID number: Letter 5699
Contact telephone number: 877-571-4712
Contact e-fax number: 877-792-2723

[Redacted]

Dear [Redacted]

We haven't received your response to our Letter 5699, Missing Information Return Form 1094/1095-C, which we sent on Jul 12, 2018. We need your response so we know how to correctly proceed.

Please complete the section under "What you must do" on the enclosed copy of Letter 5699, and return it to us within 30 days from the date of this letter. When you respond, include a name and telephone number of the person we can contact if we have questions about your response.

If you're required to file and furnish information returns and statements under Internal Revenue Code (IRC) Section 6056, failure to do so may result in the assessment of penalties under IRC Section 6721 for failure to file information returns and Section 6722 for failure to furnish information statements.

Please use the contact information above if you have questions.

Thank you for your cooperation.

Sincerely,

Shan Montoya
Operation Manager

Enclosure:
Letter 5699

Letter 5698 (Rev. 8-2018)
Catalog Number 60380E

➤ CP220J IRS Penalty Notice



Department of the Treasury
Internal Revenue Service
Group 2219
2300 Turfway Road Suite 410
Florence, KY 41042

030176 753051 401085 15555 2 AR 0.408 1171
[Barcode]

[Redacted]

Notice CP220J

Tax period December 31, 2015

Notice date October 15, 2018

Employer ID number [Redacted]

To contact us Phone 1-800-829-0115

Page 1 of 4

We charged you an employer shared responsibility payment (ESRP)

Amount due: \$174,720.00

We charged you an (ESRP) for the tax period ended December 31, 2015, because in one or more months one of the following occurred:

- You didn't offer Minimum Essential Coverage (MEC) to at least 70% (after 2015 95%) of your full-time employees (and their dependents) and at least one full-time employee received the Premium Tax Credit (PTC).
- You offered MEC to at least 70% (after 2015 95%) of your full-time employees (and their dependents), but at least one full-time employee received the PTC.

To avoid interest charges, pay the amount due by October 29, 2018.

Billing summary

ESRP amount	\$174,720.00
Amount due by October 29, 2018	\$174,720.00

Continued on back...



Payment

INTERNAL REVENUE SERVICE
OGDEN, UT 84201-0039

[Barcode]

364231505 PJ R0HR 43 2 201512 670 0000000000



Notice CP220J

Notice date October 15, 2018

Employer ID number [Redacted]

- Make your check or money order payable to the United States Treasury.
- Write your Employer ID number (36-4231505), the tax period (December 31, 2015), and "ESRP" on your payment and any correspondence.

Amount due by
October 29, 2018

\$174,720.00

➤ Proposed Legislation

The big unanswered question is “what changes to the ACA and health benefits can we expect going forward?”

Several bills are pending in Congress

- The changes can be grouped into the following general areas:
- Repeal ACA employer pay or play penalty for 2015 through 2018
- Further delay ACA Cadillac tax from 2022 to 2023

Recent Court Case

*Texas v. US*¹, Judge Reed O'Connor, US District Court for the Northern District of Texas, declared on **December 14, 2018**, that the entire Affordable Care Act (ACA) is unconstitutional

This decision is “stayed” and under appeal if it is upheld through the appeal process & congressional intervention, the decision would eliminate:

- The Marketplaces,
- Premium subsidies,
- Employer mandate,
- Affect other aspects of health care benefits and health related government agencies

THANK YOU



Technology Driven HR Solutions to Take Your Company Further

The image features three vertical panels, each with a circular icon at the top and a list of services below. The first panel is teal and titled 'HR BENEFITS', featuring an icon of a hand holding a person. The second panel is green and titled 'PAYROLL & LEAVE MANGEMENT', featuring an icon of a magnifying glass over a person. The third panel is orange and titled 'COMPLIANCE & TECHNOLOGY', featuring an icon of a person surrounded by gears.

- HR BENEFITS**
 - COBRA
 - FSA
 - HSA
 - HRA
 - Parking & Transit
- PAYROLL & LEAVE MANGEMENT**
 - FMLA
 - Absence Management
 - Payroll & HCM
 - Timekeeping
- COMPLIANCE & TECHNOLOGY**
 - ACA Elevate
 - ERISA Essentials
 - Dependent Audit
 - HR Assist Lite

Request a Proposal

For you or your client at this link:

<https://www.basiconline.com/request-a-proposal/>

BASIC Sales

888-602-2742

HR Solutions should be simple. **Keep it BASIC.**

Disclaimer

- This presentation is designed to provide accurate information in regard to the subject matter covered. It is provided with the understanding that BASIC is not engaged in rendering legal or other professional services. If legal advice or other expert assistance is required, the services of a competent attorney or other professional person should be sought. Due to the numerous factual issues which arise in any human resource or employment question, each specific matter should be discussed with your attorney.