



# Eye On Washington Health Care Reform Update



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## IRS Begins Mailing Employer Shared Responsibility Payment (ESRP) Letters

The Internal Revenue Service (IRS) recently began notifying employers via a letter containing several attachments if the employer may owe a penalty for failing to comply with the employer mandate requirements under the Affordable Care Act (ACA). As early as November 3, 2017, the IRS started mailing Employer Shared Responsibility Payment (ESRP) Letter 226J to applicable large employers (ALEs) that may owe an ESRP for one or more months in tax year 2015. Included with Letter 226J, ALEs will receive Form 14764 Employer Shared Responsibility Payment Response and Form 14765 Employee Premium Tax Credit (PTC) Listing. Samples of [Letter 226J](#), [Form 14764](#) and [Form 14765](#) are all available on the IRS website. The IRS is mailing Letters 226J on a rolling basis.

### Background

On November 2, 2017, [new guidance was released by the IRS concerning Employer Shared Responsibility assessments under the ACA](#), also known as the Section 4980H Employer Mandate penalty. Among other things, the guidance indicates that the IRS is issuing ACA employer assessments covering tax year 2015. Assessments are calculated separately for each employee and each month during which a full-time employee received subsidized ACA coverage. ALEs first filed and furnished Forms 1094-C and 1095-C in early 2016 for the 2015 calendar year.

### Impact to Employers

If you receive a Letter 226J, Form 14764 must be signed and received by the IRS by the response date indicated on the first page of Letter 226J, generally 30 days from the letter date. At the top of

Form 14764, the IRS provides a telephone number for the employer to call to request more time to respond.

The two-sided form requires that the ALE provide:

- ALE contact information
- Whether or not the ALE agrees or disagrees with all or a portion of the ESRP
- Payment option chosen by the ALE

Form 14765 lists each full-time employee that was allowed a PTC for one or more months and did not have an affordability safe harbor or other relief reported on Form 1095-C. If you disagree with all or a portion of the proposed ESRP, Form 14765 must be included with your response if corrections to Line 14 and/or 16 codes are necessary. Letter 226J also directs ALEs to include a signed statement explaining why the employer disagreed with all or a portion of the proposed ESRP and any supporting documentation.

### ADP Compliance Resources

ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the ADP *Eye on Washington* Web page located at [www.adp.com/regulatorynews](http://www.adp.com/regulatorynews).

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