

# FAQ for New Applicable Large Employers Under the ACA

Under the Patient Protection and Affordable Care Act (ACA), Applicable Large Employers (ALEs) are required to offer health insurance that is affordable, provides minimum essential coverage and provides minimum value for all full-time employees and their dependents. Failure to offer coverage that meets these requirements will result in ESRP penalties to the IRS, also known as the “employer mandate” penalties or the “pay or play provisions.”

An ALE is any employer that averaged 50 or more full-time employees in the last calendar year. Under the ACA, a full-time employee is any employee averaging at least 30 hours of work per week. Any employer hovering around that 50 full-time employee threshold may have questions about what to do when they become an ALE, and how to handle their first few years of reporting. It can be overwhelming at first, but here are a few tips for handling your first year as an ALE and the necessary ACA reporting.

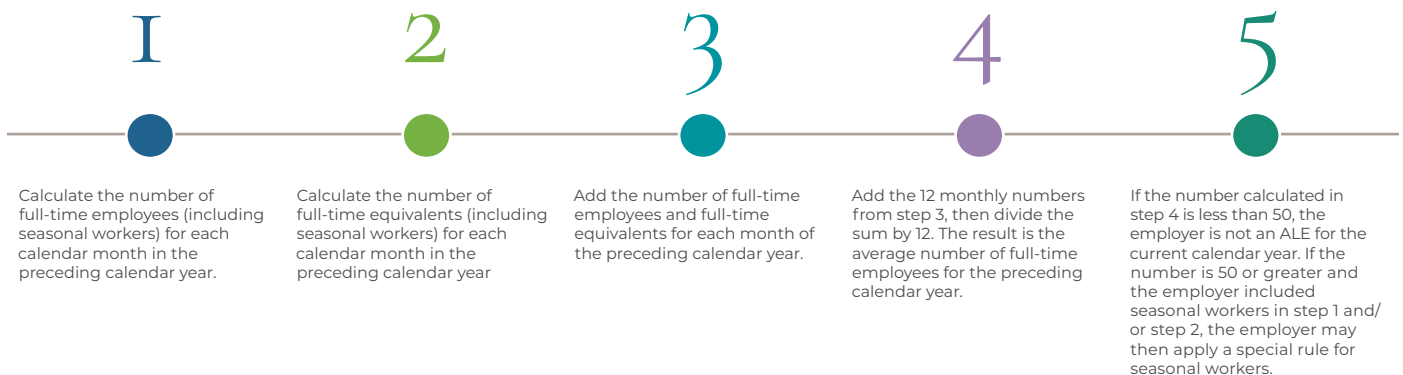
## How Do I Know if My Company is an ALE?

ALE status is determined based on the number of full-time employees that the employer had in the prior calendar year. Employers need to count their ALE status on a calendar year basis even if they offer benefits on a non-calendar year



schedule. The ACA requires employers to count employees on a “controlled group” or an “affiliated service group” basis. Generally, this means that employees of businesses with common owners (or, in some cases, which perform services for each other) will need to be aggregated for counting purposes. For more information on which employees in commonly owned entities need to be counted for ALE purposes, clients need to consult their own tax advisor or legal counsel.

## Making the ALE Calculation



## The same steps are further explained below

<b>1</b> Calculate the number of full-time employees (including seasonal workers) for each calendar month in the preceding calendar year.	<b>2</b> Calculate the number of full-time equivalents (including seasonal workers) for each calendar month in the preceding calendar year.	<b>2A</b> Calculate the aggregate hours of service in a month for employees who are not full-time employees for that month (no more than 120 hours per employee.)	<b>2B</b> Divide the number from step 2a by 120.	<b>3</b> Add the number of full-time employees and full-time equivalents for each month of the preceding calendar year.
<b>4</b> Add the 12 monthly numbers from step 3, then divide the sum by 12. The result is the average number of full-time employees for the preceding calendar year.	<b>5</b> If the number calculated in step 4 is less than 50, the employer is not an ALE for the current calendar year. If the number is 50 or greater and the employer included seasonal workers in step 1 and/or step 2, the employer may then apply a special rule for seasonal workers.	<b>6</b> <b>Seasonal Worker Exception:</b> An employer with 50 or more full-time employees can avoid ALE status if....	<b>6A</b> Employer's workforce exceeds 50 full-time employees for 120 days or fewer during the calendar year; <b>and</b>	<b>6B</b> Employees in excess of 50 employed during such 120-day period were seasonal workers.

**If an employer averaged 50 or more employees in the prior calendar year, the employer is an ALE for the current calendar year and needs to offer coverage to full-time employees accordingly.**

## Special Considerations for Controlled Groups or New Employers

The method for determining ALE status is different for employers entering into a controlled group and for employers who are beginning their businesses.

There are special rules for determining ALE status in mergers and acquisitions. If an ALE acquires a smaller, non-ALE entity, the smaller entity will become an ALE on the day of the acquisition. So the day of the merger, both the larger entity and the smaller entity are ALEs, and will need to complete reporting for that tax year. Similarly, when two non-ALEs merge or become a controlled group to become one entity with more than 50 full-time employees on the date of the acquisition, the entity should be treated as an ALE as of the date of the merger.<sup>1</sup>

**Example:** Company A has 35 full-time employees. On May 15, 2024, Company A is bought by Company B. Company B is an ALE with 150 full-time employees. On May 15, 2024, Company A became an ALE, and needs to start offering ACA-compliant coverage to all full-time employees as of that date. Company A's first ACA filing deadline will be in March 2025.

**Example:** Company C has 35 full-time employees. Company D has 25 full-time employees. On July 20, 2024, Company C and Company D merge into one entity. The two entities together is an ALE as of July 20, 2024. They need to offer ACA-compliant coverage to all full-time employees as of that date. The two companies' first ACA filing deadline will be in March 2025.

For a new employer that did not exist on any business day in the prior calendar year, they will be considered an ALE for the current calendar year if the employer is reasonably expected to employ, and actually does employ, at least 50 full-time employees on business days during the current calendar year. This rule requires employers to consider offering appropriate health care coverage right when the business starts. For subsequent years, the employer will use the regular rules to determine ALE status.

**Example:** Briana starts her business, Briana's Bakehouse, on February 2, 2024. On the first day of business, Briana has 10 full-time employees. By April, Briana is doing better than anticipated, and she has 80 full-time employees. Because Briana did not expect to employ more than 50 employees at the time her business came into existence, the business will not be considered an ALE for calendar year 2024. For 2025, the ALE status will be determined based on the average full-time employees from February 2, 2024 through December 31, 2024.

<sup>1</sup>: The controlled group rules and calculating ALE status in mergers and acquisitions can be complicated, and the circumstances of the merger or acquisition may change the ALE determination. Employers going through M&A transactions should seek the advice of counsel to determine both controlled group status and ALE status for the applicable years.



## **We Just Hit 50 Employees this Month, What Do We Do?**

Crossing the threshold of 50 employees will not trigger ALE status until the employer averages 50 employees for the entire calendar year. Employers should regularly monitor the number of full-time employees and full-time equivalent employees. Employers will only be considered an ALE for the year after they average 50 full-time employees for the entire calendar year.

Example: Jenny owns a computer store. In the past few years, she has averaged 40 full-time employees. Jenny decides she wants to expand the business, and in November 2024, she has 55 full-time employees for the remainder of the year. In this case, Jenny's store will not be an ALE in 2025 because she did not average 50 full-time employees in 2024. If Jenny maintains the 55 full-time employee count for 2025, the store will be an ALE in 2026, because Jenny will average over 50 full-time employees in 2025. Jenny will need to offer affordable, minimum essential coverage for her employees starting in January 2026, and her first ACA reporting filing deadline will be in March 2027.

## **What Happens When an Employer First Averages 50 or More Full-Time Employees in the Prior Calendar Year?**

If employers averaged 50 or more full-time employees in 2023, they will be an ALE in 2024. They will need to offer affordable, minimum essential coverage that provides minimum value to all full-time employees (and their dependents) starting in January 2024, even if their benefits renew on a non-calendar year basis. The employer will also be required to complete the annual ACA reporting.





If an employer's first year as an ALE is in 2024, its first ACA reporting will be due in March 2025. Employers should make arrangements for ACA reporting as soon as possible when they know they will be an ALE for the calendar year. Starting in 2024, essentially all ALEs are required to file the annual Forms 1094 and 1095 electronically, and the electronic filing system is different than the filing system for filing W-2s. For this reason, most employers choose a vendor to help them complete their ACA reporting.

If an employer knows that it will become an ALE in 2024, it will need to make arrangements early to make sure it meets the coverage requirements, can measure employee hours accurately and will be able to meet the reporting requirements for the 2024 calendar year. Alera Group has a number of resources to help employers walk through the various ACA requirements.

- **Offering Affordable, Minimum Essential Coverage that Provides Minimum Value**

Employers will need to consider whether their coverage is affordable and meets minimum essential coverage and minimum value requirements before the plan year begins.

- **Offering Coverage to All Full-Time Employees**

There are a number of ways an employer can measure employee hours to determine full-time status. Employers need to choose a system of measuring employee hours and implement the measuring system.

- **Reporting**

Most employers use a vendor to complete their ACA reporting, but employers should make arrangements as soon as possible before the reporting is due to make sure they have vendors in place to get the reporting done accurately and on time.

For more information on any of the topics listed above, please reach out to your Alera Group consultant.

