



EMPLOYEE BENEFITS  
PRACTICE

## Dealing With Compliance Realities Case Study

In the world of employee benefits compliance, helping a client deal with a letter from the IRS stating that they owe thousands of dollars in Affordable Care Act penalties brings with it much more intensity than answering “what if” and “can I” questions. The latter deals with determining what can or can’t be done in order to comply with government rules and regulations and we can even put a price tag on the penalty avoidance. The former is a done deal – the IRS has determined that you are not in compliance and the price tag is real. But is the IRS correct?

### Situation

The IRS is mailing “Letter 226-J” to ALEs (Applicable Large Employers) if it determined that, during 2015, one or more of the ALE’s full-time employees was enrolled in a qualified health plan for which a premium tax credit was allowed (and the ALE did not qualify for an affordability safe harbor or other relief for the employee).

One of our clients received a “226-J” letter from the IRS proposing that they owed an ESRP or Employer Shared Responsibility Payment (aka **ACA Employer Penalty**) of **\$118,213.26** and had 30 days to respond/appeal before it became a formal assessment.

### R&R Involvement

Our Benefit Consultant immediately involved R&R’s compliance expert who was able to help by:

- ✓ Reviewing the letter, the itemized penalty summary table, and the penalty explanations to understand the assumptions being made by the IRS;
- ✓ Examining copies of filed 1094-C and 1095-C forms and in the process established that:
  - Client was entitled to “transition relief” but was not coded correctly;
  - Client’s total employee counts by month which should have been disclosed in the filing were not; and
  - All of client’s employees itemized by the IRS as receiving Premium Tax Credits were in fact offered affordable coverage that met minimum value requirements.
- ✓ Drafting appropriate arguments and substantiations for client to use in their formal response/appeal to the “226-J” letter.

### Outcome

With R&R’s help, our client filed a timely response/appeal to the IRS and **did not owe any penalty assessment, avoiding the proposed \$118,213.26 penalty.**

Compliance