

# Penalties/ESRP

## Information Reporting Penalties

An ALE member that fails to comply with the information reporting requirements may be subject to the general reporting penalty provisions under section 6721 (failure to file correct information returns) and section 6722 (failure to furnish correct payee statement).

- The penalty for failure to file an information return generally is **\$100 for each return** for which such failure occurs. The total penalty imposed for all failures during a calendar year cannot exceed \$1,500,000.
- The penalty for failure to file a correct information return is \$260 for each return for which the failure occurs, with the total penalty for a calendar year not to exceed \$3,218,500.
- The penalty for failure to provide a correct payee statement is **\$100 for each statement** with respect to which such failure occurs, with the total penalty for a calendar year not to exceed \$1,500,000.
- The penalty for failure to provide a correct payee statement is \$260 for each statement for which the failure occurs, with the total penalty for a calendar year not to exceed \$3,218,500.
- Special rules apply that increase the per-statement and total penalties if there is intentional disregard of the requirement to furnish a payee statement.

The waiver of penalty and special rules under section 6724 and the applicable regulations, including abatement of information return penalties for reasonable cause, may apply to certain failures under section 6721 or 6722.

## Employer Shared Responsibility Payment (ESRP)

There are two different employer shared responsibility payments. An ALE may be subject to only one (and not both) of the two potential employer shared responsibility payments depending on its decisions about offering minimum essential coverage to its full-time employees (and their dependents). The determination of whether an ALE may be liable for an ESRP and the amount of the proposed ESRP are based on information from Forms 1094-C and 1095-C filed by the ALE and the individual income tax returns filed by the ALE's employees. Please refer to the IRS website for more information.

### *Legal Disclaimer*

*The information contained herein is intended to be used as general guidance only. This does not constitute the provision of legal advice, tax advice, accounting services, investment advice, or professional consulting of any kind. The information provided herein should not be used as a substitute for consultation with professional tax experts, finance/accounting staff, and/or legal counsel.*