NATIONAL SOFTWARE INC

HOW TO RESPOND TO IRS ACA PENALTY LETTERS

IRS-APPROVED IRIS TRANSMITTER

ACA COMPLIANCE REFERENCE GUIDE

About 1099FIRE

1099FIRE is an IRS-approved IRIS transmitter with validated TCC credentials. We provide end-to-end information return filing services so your organization can file through IRIS without needing to obtain your own TCC, build XML infrastructure, or manage the submission lifecycle in-house. Visit 1099fire.com to get started.

What This Guide Covers

- Which of the two IRS enforcement tracks your letter belongs to, and what that means for how you respond
- The purpose, deadline, and required response for every Track A and every Track B letter
- What happens, letter by letter, if you don't respond in time
- The current penalty amounts under both IRC §§ 6721/6722 and IRC § 4980H

Key Takeaway

Every ACA penalty letter falls into one of two tracks. Track A is about whether you filed correct, on-time Forms 1094-C and 1095-C. Track B is about whether you offered affordable, adequate coverage to your full-time employees. The track tells you which law applies, which form you use to respond, and whether reasonable-cause relief is even available.

This guide separates the two tracks completely, Part 1 for Track A and Part 2 for Track B, so you can go straight to the letter you received, see exactly where it sits in the escalation sequence, and know what to do next.

About this guide

This guide covers the letters the IRS sends to enforce two ACA employer rules: accurate, on-time information reporting on Forms 1094-C and 1095-C under IRC §§ 6721 and 6722 (Track A), and the Employer Shared Responsibility Payment under IRC § 4980H (Track B). It is a general reference for HR, benefits, and finance teams. It is not legal or tax advice. Penalty amounts change every year, so check the letter you received and IRS.gov for current figures and deadlines, or talk to a qualified tax professional before you respond.

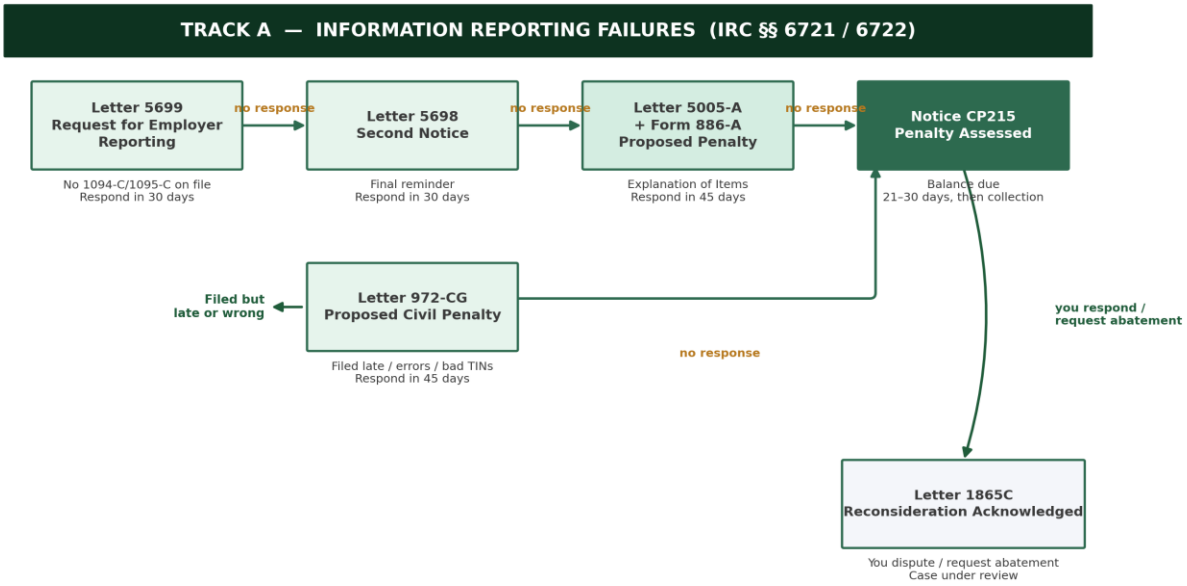
Quick Reference: Which Track Is My Letter On?

Track A (reporting): Letters 5699, 5698, 5005-A, 972-CG, Notice CP215, Letter 1865C

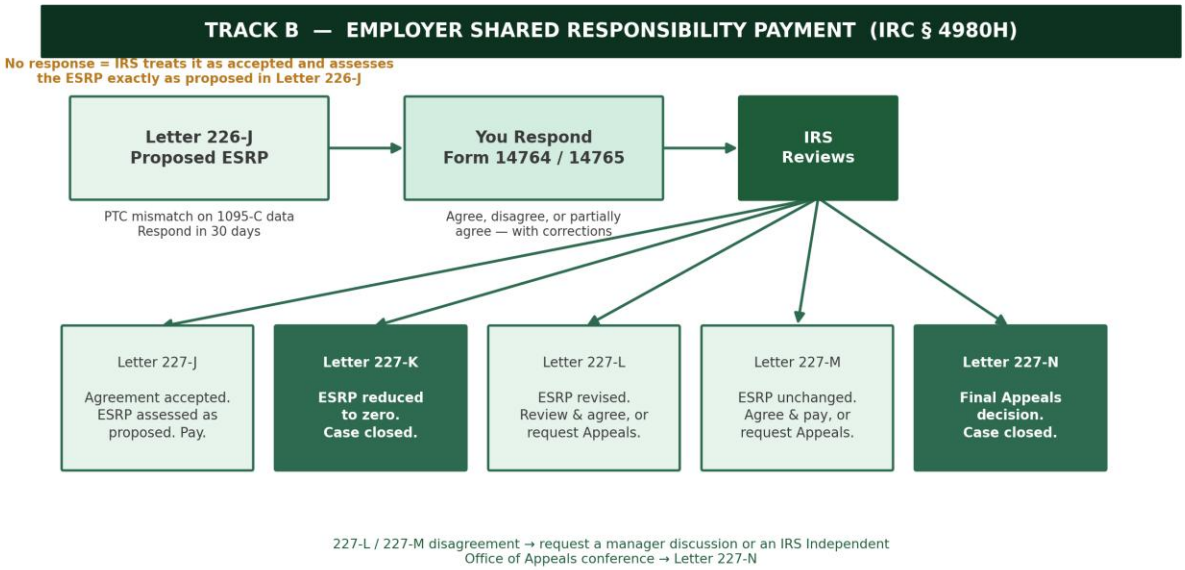
Track B (ESRP / § 4980H): Letter 226-J, and the Letter 227 series (227-J, 227-K, 227-L, 227-M, 227-N)

Visual Overview: How Each Track Escalates

Each track runs on its own escalation ladder, on its own set of deadlines, toward its own final notice. The flow charts below map every letter in the order the IRS sends them, with the deadline that applies at each step and what happens if you miss it.



Track A escalation: Letter 5699 → 5698 → 5005-A → CP215, with the 972-CG error/late-filing branch and the 1865C reconsideration path.



Track B escalation: Letter 226-J → your Form 14764/14765 response → IRS review → one of five Letter 227 outcomes.

PART 1

Track A: Information Reporting Failures

IRC §§ 6721 / 6722 · Forms 1094-C and 1095-C

This track covers whether you filed Forms 1094-C and 1095-C with the IRS on time, and whether you sent correct 1095-C statements to employees. Penalties here are charged per return or statement. They apply no matter what coverage decisions you made. Track A is purely about the paperwork.

Letter 5699

"Request for Employer Reporting of Offers of Health Insurance Coverage"

Why it's issued

The IRS's Information Return Case Selection system flagged your company as a likely Applicable Large Employer, generally 50 or more full-time and full-time-equivalent employees in the prior year. Its records show no Forms 1094-C and 1095-C on file for the year in question. This is usually the first letter you get when the IRS has no ACA return on file at all, not one filed late or with errors.

Response deadline

Generally 30 days from the date on the letter.

Steps to resolve it

- Confirm whether you were an ALE for the year in question. Count full-time and full-time-equivalent employees using the ACA's monthly method.
- Pick the response option that matches your case: you filed under a different name or EIN, you should have filed and will submit the delinquent Forms 1094-C/1095-C, you weren't an ALE that year, or another explanation.
- If you were an ALE and simply missed the filing, submit the delinquent 1094-C/1095-C forms right away. Filing before the IRS assesses a penalty puts you in a much better position.
- Keep proof you responded on time: certified mail receipt, tracking number, or e-file confirmation.

If you don't respond

A second notice, Letter 5698, usually follows. If you still don't respond, the case moves toward a penalty (Letter 5005-A with Form 886-A).

Letter 5698

Second Notice: Potential Non-Compliance with ACA Filing Requirements

Why it's issued

The IRS sends this when you didn't respond to Letter 5699, or its review of your response didn't resolve the filing question. It's a final reminder before the case moves toward a formal penalty.

Response deadline

Generally 30 days from the date on the letter.

Steps to resolve it

- Treat this with the same urgency as Letter 5699. Don't assume your earlier response was enough.

- Check that your original Forms 1094-C/1095-C were actually accepted by the IRS. A rejected e-file transmission counts as never having filed.
- File any outstanding returns right away. Respond in writing and confirm what you filed and when.
- Escalate this internally. It's a sign the case is close to moving into penalty territory.

If you don't respond

The case gets referred for a penalty assessment. That usually means Letter 5005-A with a Form 886-A explanation.

Letter 5005-A (with Form 886-A)

Proposed Penalty for Failure to File or Furnish Correct Information Returns

Why it's issued

Sent after you haven't resolved the filing gap from Letters 5699 and 5698. Form 886-A, "Explanation of Items," comes with it. It lays out the facts, the law under IRC §§ 6721/6722, and the IRS's conclusion: the dollar penalty proposed for the missing or late Forms 1094-C/1095-C.

Response deadline

Generally 45 days from the date on the letter to respond, request reconsideration, or establish reasonable cause.

Steps to resolve it

- Read Form 886-A closely. It lists exactly which returns are missing or late and how the IRS calculated the penalty.
- If you have reasonable cause (events beyond your control, a good-faith effort to comply, first-time filer, a vendor that failed to transmit your data), write a statement and back it up with documentation.
- File any remaining delinquent returns now, even at this stage. It strengthens a reasonable-cause argument and can lower your exposure.
- Respond by the deadline in writing. Don't ignore it even if you plan to dispute it later.

If you don't respond

The IRS formally assesses the penalty. You'll then get Notice CP215, which reflects the assessed, not just proposed, civil penalty.

Letter 972-CG

Notice of Proposed Civil Penalty

Why it's issued

Used for many types of information returns, including Forms 1094-C/1095-C, when the returns were filed but late, filed on paper when e-filing was required, or filed with missing or incorrect employee TINs. Unlike the 5699/5005-A track, which covers non-filers, 972-CG usually covers returns that exist but have errors or came in late.

Response deadline

45 days from the date of the notice (60 days if you're outside the United States). The IRS treats this as a firm deadline.

Steps to resolve it

- Check the notice against your own filing records. Confirm which returns or statements it cites, and check e-file acceptance dates and TIN-matching results.
- Decide your approach: pay, dispute specific items, or request abatement for reasonable cause.

- For TIN-related penalties, gather proof of your TIN solicitation efforts (initial and annual). A documented, timely solicitation process is one of your strongest defenses.
- Write a response with your business name, EIN, the letter or notice number, the tax year, your position on each item, and supporting documents as labeled exhibits.
- Send it by certified mail with return receipt before the deadline. If you can't meet the deadline, ask for an extension in writing before it passes.

If you don't respond

The IRS assesses the full proposed penalty. Once assessed, it becomes part of your tax liability and goes through standard collection: notices, liens, levies.

Notice CP215

Notice of Penalty Charge (Civil Penalty Assessment)

Why it's issued

This isn't a proposal. It's the formal notice that a civil penalty has been charged to your account, usually after the 972-CG or 5005-A process didn't fully resolve the case.

Response deadline

Payment or a response is generally due within 21 days (30 days if the balance is $100,000 or more) to avoid more interest and collection action.

Steps to resolve it

- Confirm this is an actual assessment, not a proposal. Check the notice heading and amount against the earlier 972-CG or 5005-A correspondence.
- Pay the balance if you agree, or set up a payment plan if the amount is large.
- If you disagree, or have reasonable cause you haven't raised yet, file Form 843, "Claim for Refund and Request for Abatement," to ask for the penalty to be removed.
- If collection starts, you still have rights to a Collection Due Process hearing or a Collection Appeal Program request.

If you don't respond

Standard IRS collection kicks in: more notices, and possibly liens or levies on business assets or receivables.

Letter 1865C

Penalty Reconsideration: Acknowledgement of Your Request

Why it's issued

A general IRS letter confirming it received your penalty abatement or reconsideration request, such as a reasonable-cause response to Letter 972-CG, a Form 843, or a dispute of a CP215 assessment. It confirms your case is under review. It isn't a new penalty decision.

Response deadline

No response is usually required unless the letter asks for more information. Check for any stated deadline on supplemental documents.

Steps to resolve it

- Confirm the letter references the right case, tax year, and penalty amount.
- If it asks for more documentation, send it promptly and keep a copy of everything.
- Track the case for a follow-up determination letter. Reconsideration reviews can take several months.

- Keep watching your account for collection notices. A reconsideration request doesn't automatically pause collection unless the IRS confirms it.

If you don't respond

If you don't provide the requested information, the IRS can deny reconsideration and reinstate the original assessment.

Track A Penalty Amounts

These penalties apply separately under § 6721 (filing with the IRS) and § 6722 (furnishing to employees). A single form filed late and furnished late can trigger both, doubling your exposure.

Correction timing	Penalty per return/statement	Notes
Corrected within 30 days of the due date	$60	Lowest tier. Rewards fast self-correction.
Corrected after 30 days but by August 1	$130	Mid tier.
Filed/furnished after August 1, or not at all	$340	General tier. Most common for non-filers.
Intentional disregard of filing requirements	$680 (or 10% of the amount required to be reported, if greater)	No annual cap applies.

Small Filer Relief

Lower annual caps apply to small filers with average annual gross receipts of $5 million or less over the past three years. Larger filers face higher caps. There's no cap at all for intentional disregard.

PART 2

Track B: Employer Shared Responsibility Payment

IRC § 4980H · The ESRP

This track covers whether you offered affordable, minimum-value coverage to at least 95% of your full-time employees. It gets triggered when a full-time employee receives a premium tax credit (PTC) on the ACA Marketplace. The IRS checks that against your 1095-C filings.

Letter 226-J

"Proposed Employer Shared Responsibility Payment," the most common ACA penalty letter

Why it's issued

The IRS sends Letter 226-J to an Applicable Large Employer when its data shows a mismatch. Your Forms 1094-C/1095-C, checked against employees' tax returns, show that a full-time employee got a premium tax credit for Marketplace coverage in a month when you either didn't offer minimum essential coverage to 95% of full-time employees, or offered coverage that was unaffordable, didn't meet minimum value, or wasn't offered to that employee. This is a proposed assessment, not a bill. But the IRS calculates it in detail and treats it as accurate until you show otherwise.

Response deadline

30 days from the date printed on the letter. That's the letter date, not the day you received or opened it.

Steps to resolve it

- Verify the letter is real, then read the full package: the ESRP summary table (a month-by-month breakdown) and Form 14765, "Employee Premium Tax Credit (PTC) List," which names the employees behind the proposed penalty.
- Check the letter against your own 1094-C/1095-C filings. Look for coding errors on Lines 14 (offer of coverage), 15 (employee share of lowest-cost premium), and 16 (safe harbor codes). These are the most common source of wrong 226-J penalties.
- Confirm which affordability safe harbor applies to each flagged employee (W-2 wages, rate of pay, or federal poverty line), and pull the payroll and enrollment records that support it.
- Fill out Form 14764, "ESRP Response." Mark full agreement, full disagreement, or partial agreement, and attach a corrected Form 14765 for any disputed employees with a line-by-line explanation.
- If you agree with all or part of it, include payment or pick an installment plan for the agreed amount.
- Send the full package by the deadline, using certified mail with return receipt or the method the letter specifies, so you have proof of delivery.

If you don't respond

The IRS treats no response as acceptance and assesses the ESRP as originally calculated. That closes your chance to contest the facts through this process. After that, you'd need to pay and file a refund claim, or appeal, to challenge it, a much harder path than responding on time.

The Letter 227 Series: IRS Acknowledgement and Closing Letters

After you respond to Letter 226-J with Form 14764/14765, the IRS reviews it and sends back one of five versions of Letter 227. Each one means something different. The IRS generates these automatically based on the outcome of its review.

Letter	What it means	Action required
Letter 227-J	Confirms it received your signed agreement (Form 14764) and the ESRP will be assessed as proposed.	None. The case closes. Pay the assessed amount as instructed.
Letter 227-K	Confirms it received your information and the ESRP has been reduced to zero.	None. The case closes. You owe nothing.
Letter 227-L	Confirms it received your information and the ESRP has been revised (partly reduced or changed).	Review the revised Form 14765. Agree, or ask for a discussion with the IRS manager or a conference with the IRS Independent Office of Appeals if you still disagree.
Letter 227-M	Confirms it received your information and the ESRP is unchanged from the original 226-J proposal.	Agree and pay, or ask for a manager discussion or an Appeals conference if you disagree.
Letter 227-N	States the final decision from the IRS Independent Office of Appeals after a 227-L or 227-M dispute.	None. The case closes. This is generally final.

Note on Reasonable Cause

Unlike Track A penalties, reasonable-cause relief generally doesn't apply to ESRP assessments under IRC § 4980H. On Track B, your leverage comes from fixing coding errors in your 1094-C/1095-C data and documenting affordability safe harbors, not from arguing good faith.

Track B Penalty Amounts

Both penalty types are adjusted for inflation every year. The figures below are the most recent published amounts. Always check the figure on your specific letter, since it reflects the year the failure happened, not the year the letter was mailed.

Provision	2025	2026
§ 4980H(a): no coverage offered to 95% of full-time employees (per employee, minus the first 30)	$2,900 / yr	$3,340 / yr
§ 4980H(b): coverage offered but unaffordable or inadequate for an employee who got a PTC (per affected employee)	$4,350 / yr	$5,010 / yr

General Response Playbook

No matter which track you're on, or which letter you get, the same basics apply:

- Read the letter fully before you react. Note the tax year, the IRC section, the dollar amount, and the exact deadline.

- Calendar the deadline right away. Most letters in this guide give you 21, 30, or 45 days. Miss it, and a proposal turns into a final assessment.
- Pull your records: filed 1094-C/1095-C forms and e-file confirmations, payroll and enrollment data, coverage offer documents, and any earlier IRS correspondence on the same issue.
- Bring in the right people early: payroll/HRIS, benefits administration, and outside tax counsel or an ACA compliance specialist, especially once the dollar amount reaches six figures.
- Respond in writing, on time, using the form the letter requires (Form 14764/14765 for 226-J; a written statement or Form 843 for the Track A letters). Keep proof of certified mail.
- If you agree with part of a proposed penalty, consider paying that portion now to stop interest from building while you contest the rest.
- Protect your appeal rights. Know whether your letter is a proposal, where you can still contest the facts, or an assessment, where you generally need to pay and file a refund claim, or pursue collection due process.

The Bottom Line

Track A is a filing problem. Fix it by filing the missing or corrected returns and documenting reasonable cause. Track B is a coverage problem. Fix it by correcting coding errors and proving your affordability safe harbor. Knowing which track you're on tells you which fight you're actually in.

Sources

Official IRS pages:

- Understanding your letter 226-J, IRS.gov
- Understanding your letter 227, IRS.gov
- Sample Letter 226-J (PDF), IRS.gov
- IRM 25.21.4, IRC 6056 Non-Filer and IRC 4980H Compliance Process, IRS.gov
- IRM 4.19.25, Information Return Penalty (IRP) Procedures, IRS.gov
- Information return penalties, IRS.gov
- Publication 1586, Reasonable Cause Regulations & Requirements, IRS.gov
- Form 843, Claim for Refund and Request for Abatement, IRS.gov
- Questions and answers on Section 6056 employer reporting, IRS.gov

Get the 1094-C and 1095-C Right the First Time

Track A is a filing problem. Track B usually starts as a coding problem. Both cost far less to prevent than to answer once a letter arrives.

1099FIRE files information returns as an IRS-approved transmitter, with validation and TIN Matching before anything goes to the IRS.

Call 1099FIRE today at (480) 706-6474 or visit 1099fire.com

Disclaimer

This guide reflects publicly available IRS guidance as of August 2026. It's for general information only, not legal, tax, or accounting advice. ACA rules, penalty amounts, and IRS procedures change. Verify current details against IRS.gov and the letter you received. Consult a qualified professional before you act.