

# Compliance Checklist

The one constant with federal and state regulations is change. Keeping up with everything is challenging for employers and failure to comply can lead to audits, excise taxes, penalties and in some cases litigation or even jail time.

The more you know about compliance the more you can reduce your risk and protect your company. This checklist will help you assess your compliance needs.

Along with our human capital management partner, isolved, we offer services and products designed to the way you manage these compliance requirements, as well as protect your organization. Allow our experienced, knowledgeable team members to take the compliance worries off your shoulders as we ensure your business follows every applicable rule and law.



**90%**

The IRS estimates that of all employers are out of compliance with cobra regulations.

**In FY 2021 the Employee Benefits Security Administration (EBSA) recovered over \$2.4 B for plans, participants, and beneficiaries.\***

\* U.S. Department of Labor 2021 Enforcement Statistics Fact Sheet

1-49 Employees	50-99 Employees	100+ Employees
<input type="checkbox"/> ERISA	<input type="checkbox"/> ERISA	<input type="checkbox"/> ERISA
<input type="checkbox"/> COBRA/State Continuation	<input type="checkbox"/> COBRA/State Continuation	<input type="checkbox"/> COBRA/State Continuation
<input type="checkbox"/> ACA*	<input type="checkbox"/> ACA	<input type="checkbox"/> ACA
<input type="checkbox"/> Employee Handbook	<input type="checkbox"/> FMLA	<input type="checkbox"/> FMLA
	<input type="checkbox"/> Employee Handbook	<input type="checkbox"/> IRS Form 5500**
		<input type="checkbox"/> Employee Handbook

\* If offering level-funded or self-funded coverage ACA 1094/1095 "B" Reporting is required  
 \*\* When 100+ employees are participating in any portion of the employee benefit health and welfare plan.

## Other compliance and benefit-related services for all employers

- FSA
- HSA
- HRA
- Transit
- Premium Only Plan
- Non-Discrimination Testing
- Mailings
- HR Legal Assistance

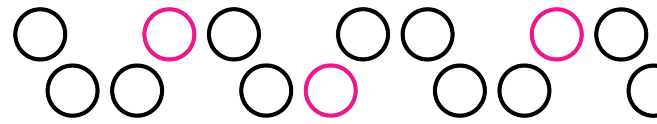


# Regulations

	ERISA	COBRA	State Continuation	FMLA	NDT	POP	ACA Reporting	
What	ERISA protects the interests of employee benefit plan participants and their beneficiaries.	Now 35+ years old, this legislation allows workers and their families to keep their group health coverage during times of voluntary or involuntary job loss, reduction in the hours worked, transition between jobs and in certain other cases.	State Continuation requirements vary by state and may include continuation of benefits outside of COBRA requirements and/or an extension of benefits beyond the time frame allowed under COBRA.	The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons.	The purpose of non-discrimination testing is to ensure that plans are non-discriminatory in eligibility and participation, and the highly-compensated are not participating to a higher degree than the non-highly compensated.	It allows employer-sponsored premium payments to be paid by the employee on a pretax basis. Traditionally, POP plans have been used in combination with employer-sponsored group health insurance plans.	Signed into law in March 2010, the Affordable Care Act, while designed to reduce the cost of health insurance coverage for people who qualify for it, brought a whole new set of challenges for employers.	
Who	Under 20 EE	•	•		•	•	If offering level-funded or self-funded coverage	
	Under 50 EE	•	•	•	•	•		
	Over 50 EE	•	•	•	•	•	•	
	Over 100 EE	•	•	•	•	•	•	
How	Plan Document Requirement	•			•	•		
	Disclosure Requirement	•			•	•		
	Reporting Requirement	•	•	•	•	•		
	Notices		•	•	•	•		
	Benefit Continuation Requirement		•	•	•			
Fines	Statutory Penalties	Up to \$2,259 per day	\$110 per day, risk for civil action	Varies	Varies	You have the opportunity to correct the testing if you fail. If unable to pass testing, additional corrective measures required.	Additional taxes, interest and potential for imprisonment for willful mishandling.	Additional taxes, interest and potential for imprisonment for willful mishandling.



# What you need to know



## ERISA (Employee Retirement Income Security Act)

**WHAT:** ERISA protects the interests of employee benefit plan participants and their beneficiaries. It requires plan sponsors to provide plan information to participants. It establishes standards of conduct for plan managers and other fiduciaries. There are also enforcement provisions to ensure that plan funds are protected and that qualifying participants receive their benefits, even if a company goes bankrupt.

**WHO:** Private sector organizations of all sizes. For group plans with more than 100 participants, there is a requirement to file an annual 5500 form and distribute a Summary Annual Report (SAR).

**PENALTIES:** The penalty for failure to file a timely and accurate 5500 is \$2,259.00 per day. The penalty for failure to furnish documents requested by the DOL is \$161.00 per day (\$1,613.00) per request.

**SOLUTION:** Maintain compliance and remain up to date with ever changing rules with isolved's ERISA services.

## COBRA (Consolidated Omnibus Budget Reconciliation Act)

**WHAT:** Now 35+ years old, this legislation allows workers and their families to keep their group health coverage during times of voluntary or involuntary job loss, reduction in the hours worked, transition between jobs and in certain other cases. Proper COBRA compliance entails many required notices and tracking numerous time frames. The notice requirements and the work related to them are endless.

### STATE CONTINUATION REQUIREMENTS

**State Continuation requirements vary by state and may include continuation of benefits outside of COBRA requirements and/or an extension of benefits beyond the time frame allowed under COBRA.**

**WHO:** The law generally applies to all group health plans maintained by employers (private-sector and state/local government) that have at least 20 employees on more than 50 percent of its typical business days in the previous calendar year. Both full- and part-time employees are counted to determine whether a plan is subject to COBRA. The law does not apply to plans sponsored by the Federal Government or by churches and certain church-related organizations.

**PENALTIES:** Failure to provide timely COBRA notification can bring about serious ramifications for an employer, including daily penalties of \$110, per notice. For the election notice, there is no maximum penalty on the daily penalty per notice. Additional risks related to failures in COBRA administration include civil action in state or federal court.

**SOLUTION:** With isolved as your benefits administration partner, you can spend your time managing your workforce, not administering COBRA and managing the timeframes and notices that go with it.

## ACA (Affordable Care Act)

**WHAT:** Signed into law in March 2010, the Affordable Care Act, while designed to reduce the cost of health insurance coverage for people who qualify for it, brought a whole new set of challenges for employers.



**WHO:** Applicable Large Employers (ALEs) – an employer with at least 50 full-time employees, including full-time equivalent employees – are now required to generate, distribute, and file forms for applicable employees. You can also be a “provider of coverage” like an insurance carrier or a small non-ALE employer that is sponsoring a self-funded or level-funded health plan.

90%

**It’s estimated that up to of employers are not prepared to meet the significant reporting requirements the Affordable Care Act has imposed.**

**PENALTIES:** A penalty of \$2,750 (for 2022) per full-time employee minus the first 30 will be incurred if the employer fails to offer minimum essential coverage to 95 percent of its full-time employees and their dependents, and any full-time employee obtains coverage on the exchange.

For failures to file forms, a \$280 penalty per form that should be furnished to the employee, and \$280 per form filed to the IRS. If the IRS believes there is willful disregard, these penalties are doubled.

**SOLUTION:** Whether it’s figuring out if your organization needs to comply, calculating your coverage to ensure you meet the minimum value and affordable coverage, or filing the correct forms, isolved has you covered.

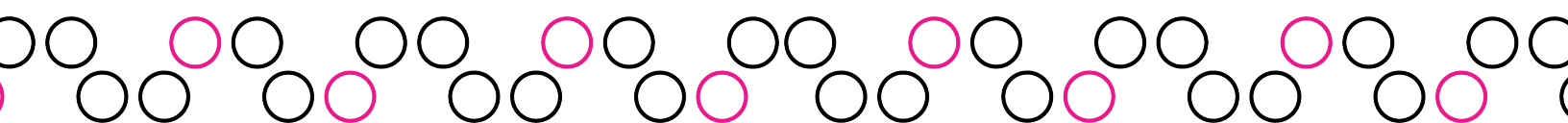
### **Premium Only Plan (POP), Section 125 Cafeteria Plan**

**WHAT:** It allows employer-sponsored premium payments to be paid by the employee on a pretax basis. Traditionally, POP plans have been used in combination with employer-sponsored group health insurance plans.

**WHO:** Any employer who wishes to take advantage of pre-tax payroll deductions for employee contributions to a welfare benefit plan. The plan may make benefits available to employees, their spouses, and dependents. It may also include coverage of former employees, but cannot exist primarily for them.

**PENALTIES:** Failure to maintain a current, accurate plan document and operate it accordingly can result in penalties, additional taxes, penalties and interest, and the potential for imprisonment for willful mishandling.

**SOLUTION:** You can boost loyalty and morale by allowing employees to pay premium contributions with pre-tax dollars. This increases employees’ take-home pay and reduces the employer’s gross payroll. isolved makes it easy for you to stay in compliance by providing critical plan documents and guidance on calculating payroll.



## Non-Discrimination Testing

**WHAT:** The purpose of non-discrimination testing is to ensure that plans are non-discriminatory in eligibility and participation, and the highly-compensated are not participating to a higher degree than the non-highly compensated.

**WHO:** All group sizes that offer FSA, POP, HRA, or Self-funded Health Plans are required to do annual testing.

**PENALTIES:** If you fail the non-discrimination testing you do have the opportunity to correct it.

**SOLUTION:** Included with isolved's POP plan and some of our ERISA services, you can answer a few questions and leave the testing to us.

Have more questions? Together let's ensure your organization remains up to date with current regulations. **Call or visit [www.morethanpayroll.com](http://www.morethanpayroll.com) to learn more.**

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