

## ACA Employer Reporting Requirements

July 24, 2014, the Internal Revenue Service (IRS) released draft forms and instructions to be used for Internal Revenue Code § 6055 and § 6056 reporting, including IRS forms 1094-B, 1094-C, 1095-B, and 1095-C.

The IRS is suggesting that employers file these forms in 2015 for 2014, but it is not mandatory. The first reports will be officially due in early 2016 regarding employee information and health care coverage provided in 2015.

### Reporting Rules:

**Internal Revenue Code § 6055** requires health insurance issuers, and employers that sponsor self-funded health plans, to report information concerning the type and period of coverage to the IRS and to covered participants. This reporting is intended to verify that the participant has “minimal essential coverage” (MEC) for purposes of the Affordable Care Act’s individual responsibility requirements.

**Internal Revenue Code § 6056** requires employers with 50 or more “full-time-equivalent” employees (FTEs), referred to in the Affordable Care Act as “applicable large employers” (ALEs), to provide information to the IRS about whether MEC is offered to their FTEs and their dependents (whether they are self or fully-insured). This information will be used by the IRS to determine whether an employer owes a shared responsibility (play or pay) payment under Internal Revenue Code § 4980H and whether an employee is eligible for a premium tax credit on a Marketplace Exchange.

### Requirements are as follows:

- Health insurance issuers and self-funded health plan sponsors will generally be required to provide Form 1095-B to plan enrollees and file copies along with transmittal Form 1094-B with the IRS.
- ALEs will be required to provide Form 1095-C to employees and file copies along with transmittal Form 1094-C with the IRS. These employers will be reporting the following:

The report should include the employer’s information, as well as information surrounding their benefits coverage options, and workforce demographics. Specifically:

- The name, address and employer’s identification number (EIN).
- The name and telephone number of the employer’s contact person.
- The months during the calendar year for which coverage under the plan was available.
- The calendar year for which the information is reported.



- A certification as to whether the employer offers its full-time employees and their dependents the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan, by calendar month.
- The number of full-time employees for each month during the calendar year.
- Each full-time employee's share of the lowest-cost monthly premium (self-only) for coverage providing minimum value offered to that full-time employee under an eligible employer-sponsored plan, by calendar month.
- The name, address and taxpayer identification number (TIN) of each full-time employee during the calendar year and the months, if any, during which that employee (and any dependents) were covered under any such health benefits plans.
- Other information the Department of Health and Human Services (HHS) may require.

The employer must also provide a written statement to the covered individual, which includes:

- The name, address and contact information of the reporting employer.
- The information for the individual on the return being filed.

An employer that is an ALE and also is the plan sponsor of a self-funded health plan usually will be able to use Form 1095-C to satisfy both the § 6055 and § 6056 reporting requirements.

#### **Simplified reporting method:**

The IRS has provided a simplified reporting method for large employers that make qualifying offers of coverage to FTEs and their dependents for all 12 calendar months of the reporting year. This simplified alternative allows the employer to report without identifying or specifying the number of FTEs. This option is also available for employers that offered affordable health coverage under the IRS safe harbors for all 12 months of the calendar year (minimum value to at least 98% of its employees and their dependents for whom it is filing a Form 1095-C).

The forms and instructions are expected to be finalized later in this year. Additional information about the reporting requirements for § 6055 and § 6056 can be found in the IRS FAQs (Section 6055 and Section 6056).

#### **What is the deadline?**

Similar to the applicable W-2 reporting deadline, statements should be provided annually to employees by Jan. 31. Forms must be provided to the IRS by Feb. 28 (March 31 if filed electronically) for the previous calendar year. Employers are encouraged to voluntarily report starting in 2015 for the 2014 plan year, but official annual reporting begins in 2016 for the 2015 plan year.



## **How do employers submit the report?**

Employers are required to provide the IRS with Form 1094-C, which is the transmittal form, and Form 1095-C, which is the employee statement. A separate employee statement is required for each full-time employee, and a single transmittal may be used for all of the returns filed for the calendar year. Draft forms are expected to be available from the IRS as the reporting deadline approaches. Additionally, employers with 250 or more W-2s are required to submit the form electronically.

## **Can a third-party organization file the report?**

Yes, the law allows employers to use a third party to assist businesses with filing IRS reporting and providing statements to individuals insured by the health plan.

## **Is there a penalty for non-compliance?**

Currently, employers may face penalties for not filing informational reporting. However, the law explains that these fines may be waived for employers that do not file due to reasonable cause, or reduced for errors that are corrected in a timely manner that are not due to reasonable cause.

## **What employers should do now:**

1. Familiarize themselves with these draft reporting forms and instructions to understand the type of data they may need to collect to complete the reports.
2. Make sure that their human resources and payroll systems are capturing that data and can produce the reports to comply with the new reporting requirements.
3. Consult with their payroll vendor and tax advisors to determine whether they will qualify for simplified reporting instead of the detailed reporting requirements. Watch for updated guidance from the IRS.
4. Work with their broker to better understand how the minimum essential coverage and shared responsibility provisions of the ACA apply to their plans.

*This Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.*