

HCR ALERT

Tuesday, October 11, 2016

IRS Releases Final 2016 ACA Reporting Forms and Instructions

On October 3, 2016, the Internal Revenue Service (IRS) released final versions of Form 1094-C, Form 1095-C, and corresponding form instructions for 2016, which employers will use to satisfy their 2016 information reporting obligations under the Affordable Care Act (ACA). Differences from the 2015 forms and instructions are primarily clarifications, with only a few minor procedural changes.

As background, the ACA imposes annual information reporting requirements (IRC sections 6055 and 6056) on applicable large employers (ALEs), insurers, and health plan sponsors to assist the IRS in administering compliance with the individual and employer shared responsibility mandates of the ACA and in confirming individuals' eligibility for Marketplace premium tax credits. Reporting entities must complete a form for each individual for which reporting is required, provide a copy to the individual, and submit all forms to the IRS along with a transmittal cover form with summary information about the reporting entity.

Below are highlights of clarifications and additions found in the 2016 forms and instructions.

- Form 1095-C, Line 14 Offer of Coverage Codes
 - Addition of codes 1J and 1K to address conditional offers of coverage to spouses (e.g., coverage not offered if spouse is eligible for another employer plan or Medicare), which should be used regardless of whether a spouse meets applicable conditions.
 - Elimination of code 1I (qualifying offer method transition relief), which is no longer applicable.
 - Reminder that code 1G (self-insured plan enrollee who was not a full-time employee, or was not employed, for any month of the calendar year) must be used for the entire year or not at all.
- Form 1095-C, Line 16 Safe Harbor Codes
 - Elimination of code 2I (non-calendar year plan transition relief), which is no longer applicable.
 - Reminder that code 2C (employee enrolled in coverage) should not be used if coverage is not minimum essential coverage and that affordability safe harbors 2F, 2G, and 2H should

not be used for any month an ALE checks “No” in part III, column (a) in Form 1094-C (minimum essential coverage offer indicator).

- Confirmation that a safe harbor code is not needed on line 16 when offer of coverage code 1A (qualifying offer method) is used on line 14 because a qualifying offer is, by definition, treated as an offer that meets an affordability safe harbor.
- **Full-Time Employee** – Clarification that “full-time employee” means an employee who meets the ACA definition of full-time (as determined by either the monthly measurement method or the look-back measurement method), rather than any other definition of full-time the ALE might use for other purposes (stressed particularly with regard to full-time employee count in Form 1094-C, part III, column (b)).
- **Employee Cost** – Relabeling of line 15 of Form 1095-C from “Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage” to “Employee Required Contribution” and new cross-reference to regulations regarding certain health reimbursement arrangement (HRA) contributions, cafeteria plan contributions, and wellness program incentives that are counted toward the required contribution.
- **COBRA and Reporting Spouse/Dependent Coverage Offers** – Clarification that, for the purpose of line 14 of Form 1095-C, an offer of coverage or offer of COBRA coverage to spouse/dependents of an active employee is reported as an offer for the entire plan year, even if coverage is declined; however, when an offer of COBRA coverage to an active employee does not include spouse/dependents because they were not enrolled in coverage, the COBRA offer is not reported as an offer to spouse/dependents on Form 1095-C (yet the ALE is treated as having made an offer to dependents for the entire plan year for the purpose of part III, column (a) in Form 1094-C (minimum essential coverage offer indicator)).
- **Form 1094-C Contact Information** – Clarification that this contact should be the individual who can answer questions from the IRS regarding the reporting entity’s filing, which may be different than the contact identified in Form 1095-C for questions from individual recipients.
- **Note to 1095-C Recipients** – Addition of statement on Form 1095-C reminding recipients it should be kept for personal records and not attached to federal tax returns.
- Transition Reliefs
 - Certain reliefs are available in 2016 only if an ALE, or any member of an ALE’s Aggregated ALE Group, has at least one health plan with a non-calendar year plan year and the relief is applicable only to 2016 calendar months that fall within the 2015 non-calendar year plan year (if an ALE, or different members of an Aggregated ALE Group, offer coverage under more than one health plan with different plan years, the transition reliefs apply through the last day of the latest of the plan years, for all members of the Aggregated ALE Group, if applicable):
 - ALEs with 50-99 full-time employees (including FT equivalents) – 4980H penalties not assessable.

- ALEs with 100+ full-time employees (including FT equivalents) – 80 full-time employees are excluded from calculation of 4980H(a) penalties rather than 30, if applicable.
- ALEs offering MEC to 70% of full-time employees – 4980H(a) penalties not assessable if minimum essential coverage is offered to at least 70% of full-time employees and their dependents rather than 95%.
- ALEs not offering coverage for dependents – 4980H(a) penalties not assessable if dependent coverage was not offered but ALE but took steps during 2015 plan year to offer coverage as of 2016 plan year.
- Qualifying offer method transition relief and non-calendar year plan transition relief are not applicable for any part of 2016 for any ALE.
- **Reporting Penalties** – Reminder that the penalty for failure to file correct returns increases from \$250 per failure with aggregate limit of \$3.0M to \$260 per failure with aggregate limit of \$3.193M.

The IRS also recently released final 2016 versions of Forms 1094-B and 1095-B and corresponding instructions, which are generally used by insurers to report on covered individuals under insured policies for Section 6055 minimum essential coverage reporting requirements, but can also be used by employers in lieu of Form 1095-C to report on non-employee enrollees (e.g., retirees, COBRA participants terminated in a prior calendar year, etc.) of a self-insured plan.

Undoubtedly, the most significant difference between the 2015 and 2016 ACA reporting requirements is timing. The automatic deadline extensions granted for 2015 reporting are not applicable for 2016, so employers should be prepared to deliver statements to individuals by January 31, 2017 and file IRS reporting by February 28, 2017 if filing by paper or March 31, 2017 if filing electronically (required if filing 250+ forms). Reporting entities can request a 30-day extension to the IRS filing deadline by filing IRS Form 8809 prior to the due date; however, no extensions are available for the due date to provide statements to individuals.

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Your Trion Strategic Account Managers are here to answer any questions you might have as you prepare to comply with upcoming ACA requirements. If you are not currently a Trion client and would like assistance navigating the changes required by health care reform, please contact us today by emailing trionsales@trion-mma.com.

ACA REGULATIONS & GUIDANCE ISSUED IN THE LAST THREE MONTHS

- Oct. 2016: IRS Issues Final Forms & Instructions for 2016 Information Reporting – 1094-C, 1095-C
- Sep. 2016: IRS Issues Final Forms & Instructions for 2016 Information Reporting – 1094-B, 1095-B
- Sep. 2016: EEOC Issues Informal Letter Clarifying Wellness Incentive Limits For Employers With Multiple Coverage Options

Aug. 1026: IRS Issues Proposed Rule on 6055 Information Reporting Requirements

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