



Monday, September 15, 2014

IRS Releases Draft Instructions for Annual Employer Reporting Forms

In our [July 30, 2014 HCRAlert!](#) we reported that the IRS released draft versions of forms which reporting entities will use to satisfy annual reporting requirements created by the Affordable Care Act (ACA). Recently, the IRS issued the awaited [draft instructions](#) for completing those forms (Forms [1094-B](#), [1095-B](#), [1094-C](#) and [1095-C](#)). The instructions primarily confirm and clarify details released in prior guidance.

The reporting, known as Section 6055 and Section 6056 reporting, will assist the IRS in administering compliance with the individual and employer shared responsibility mandates of the ACA.

- Section 6055 requires health insurance issuers, self-insured plan sponsors, and others that provide minimum essential coverage (MEC) to report information about all individuals covered during the calendar year and during which month(s) each individual was covered.
- Section 6056 requires applicable large employers (ALE) (50 or more full-time/ full-time equivalent employees) to report, for each employee who was full-time status at any time during the calendar year, information about health care coverage offered to the employee, if any.

Reporting entities must complete a form for each employee or primary insured and provide it to the IRS and to the individual. In addition, at least one transmittal cover form with summary information about the reporting entity must accompany the individual forms submitted to the IRS. As noted in previous guidance, Section 6055 and Section 6056 reporting has been consolidated into a combined form for employers that must report as both ALEs and self-insured plan sponsors. The instructions confirm which forms should be used by different employer reporting entities as well as the specific sections each reporting entity should complete:

| ALE Offering No MEC or Insured MEC Only ¹ | ALE Offering Self-Insured MEC | Non-ALE Employer Offering Self-Insured MEC |
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| Section 6056 Reporting | Section 6055 & Section 6056 Reporting | Section 6055 Reporting |
| <ul style="list-style-type: none"> • For each employee who was FT status at any time during the year: <ul style="list-style-type: none"> – Form 1095-C (Parts I & II) to IRS & employee | <ul style="list-style-type: none"> • For each employee covered by the self-insured plan at any time during the year, regardless of FT status: <ul style="list-style-type: none"> – Form 1095-C (All Parts) to IRS & employee • For each employee who was FT status at | <ul style="list-style-type: none"> • For each individual covered by the self-insured plan at any time during the year, regardless of employment status: <ul style="list-style-type: none"> – Form 1095-B (Parts I, |

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| <ul style="list-style-type: none"> • Transmittal form: <ul style="list-style-type: none"> – Form 1094-C to IRS <p>¹ For the 2015 reporting year, employers with 50-99 full-time employees that qualify for transition relief from the employer mandate in 2015 and that do not sponsor self-insured MEC must file only a 1094-C transmittal form certifying their eligibility for transition relief.</p> | <p>any point during the year and not covered by the self-insured plan at any time during the year:</p> <ul style="list-style-type: none"> – Form 1095-C (Parts I & II) to IRS & employee <ul style="list-style-type: none"> • For each individual covered by the self-insured plan at any time during the year who was not an employee at any time during the year (e.g. COBRA, pre-65 retiree, surviving spouse): <ul style="list-style-type: none"> – Form 1095-B (Parts I, III & IV) to IRS & primary insured <ul style="list-style-type: none"> • Transmittal forms: <ul style="list-style-type: none"> – Form 1094-C to IRS with 1095-C forms – Form 1094-B to IRS with 1095-B forms | <p>III & IV) to IRS & primary insured</p> <ul style="list-style-type: none"> • Transmittal form: <ul style="list-style-type: none"> – Form 1094-B to IRS |
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The instructions also provide line-by-line guidance for completing each of the required data elements which, in general, consist of:

- For Form 1095-C, Section I requires employee and employer names, employee Social Security Number (SSN)/Employer Identification Number (EIN), and addresses. Section II requires: 1) a code to indicate what type of coverage (e.g. minimum essential, minimum value, “qualified offer”), if any, was offered to the employee and to a spouse and/or dependents each month; 2) the employee-only cost for lowest-cost minimum value coverage; and 3) a code to indicate whether any of several employer safe harbors applied in any month(s).
- ALEs that offer self-insured coverage must also complete Section III of Form 1095-C for any employee who was enrolled in the self-insured plan at any time during the year. This section requires name and SSN of each covered person, including dependents, and notation of which month(s) of the year each individual was covered for at least one day during the month.
- Form 1095-B, which will be used by non-ALE self-insured plan sponsors (and issuers of insured plans) for all enrollees and by ALE self-insured plan sponsors for covered enrollees who are not employees, requires essentially the same information as Sections I and III of Form 1095-C.

Reporting entities are permitted to use truncated SSNs on statements provided to individuals, but not on forms submitted to the IRS. Employers who are unable to obtain a dependent SSN after making reasonable efforts to collect it can instead report a dependent’s date of birth. A reporting entity will be considered to have acted responsibly in attempting to obtain an SSN if it makes at least 3 attempts – an initial request when the relationship with the plan is established, a second request by December 31st of the year the relationship began (or January 31st of the following year if relationship began in December) and by December 31st of the year after the relationship was established. For currently enrolled dependents for which SSN is not on file, the first attempt is satisfied if the original enrollment application requested SSN (if not, the employer should solicit it in 2014). A second attempt should be made by December 31, 2014 and a third

attempt should be made by December 31, 2015.

Reporting is first due in early 2016 for the 2015 calendar year. Statements to individuals must be mailed or provided by January 31 following the calendar year to which the information applies and IRS filings are due by the last day of February (March 31 if filed electronically). If any of those dates falls on a weekend or legal holiday, the due date is the first business day thereafter.

While the instructions are clear in stating that reporting entities filing 250 or more forms must submit filings to the IRS electronically, the instructions indicate that details regarding formats for returns filed electronically through the ACA Information Returns (AIR) system are still under development. Also of note, while electronic filing may be required for submission to the IRS, reporting entities who wish to provide statements to individuals electronically must obtain affirmative consent from individuals. Consent may be given electronically or on paper but, if given on paper, the individual must also confirm that consent electronically.

The instructions also indicate employers that are ALEs and are part of a controlled group must report the names and EINs of the other members of the controlled group (up to 30) on their 1094-C transmission forms. Alternatively, one member of a controlled group may file on behalf of the other members of the group (e.g. a parent company), but each employer is ultimately responsible for ensuring its reporting responsibilities are satisfied.

These forms and instructions are draft versions only and should not be relied upon for filing. The IRS may make changes prior to releasing final versions. Trion will keep you apprised as new developments occur. However, in the meantime, we suggest that employers review the instructions and begin to discuss the reporting requirements with their benefits administration providers and providers who assist them with electronic tax reporting.

Trion is currently reviewing the specifications to determine best practice for automating the data collection process for our Benefits Administration clients and to determine what services we can offer to provide to support other clients with this process. We will keep you informed as more information becomes available. Trion will continue to keep you apprised as additional information becomes available.

PPACA REGULATIONS & GUIDANCE ISSUED IN THE LAST 3 MONTHS

Jun. 2014: [Agencies Issue Final Regulations on Orientation and 90-Day Waiting Periods](#)

Jun. 2014: [IRS Issues Final Regulations on Small Employer Tax Credit](#)

Jul. 2014: [ACA FAQs Part XX – Preventive Services Disclosure Regarding Contraceptives](#)

Jul. 2014: [IRS Issues Draft Forms for Employer Reporting \(1094-B, 1095-B, 1094-C & 1095-C\)](#)

Aug. 2014: [IRS Issues Instructions for Employer Reporting Forms 1094-B & 1095-B and 1094-C & 1095-C](#)

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