



September 22, 2015

IRS Releases Final 2015 Annual Reporting Forms

On September 17, 2015 the Internal Revenue Service (IRS) released final versions of forms and corresponding instructions which reporting entities will use to satisfy Affordable Care Act (ACA) annual reporting requirements for calendar year 2015.

Background

As discussed in previous editions of Trion's *HCRAlert!*, the ACA imposes annual information reporting requirements on employers, health plan sponsors, and insurers (known as section 6055 and section 6056 reporting) to assist the IRS in administering compliance with the individual and employer shared responsibility mandates of the ACA and confirming individuals' eligibility for marketplace subsidies. Reporting entities must complete a form for each individual for which reporting is required and at least one transmittal cover form with summary information about the reporting entity must accompany the individual forms. The following table summarizes the forms that must be filed by employers in various circumstances:

Employer Size	Form Type	Status of Individuals	
		FT Employees Enrolled in Insured Plan or Not Enrolled in Any Plan	Employees or Non-Employee Primary Insureds Enrolled in Self-Insured Plan
50+ FT employees (Applicable Large Employer (ALE))	Individual Statements	1095-C (Parts I & II only)	1095-C for employees, 1095-C or 1095-B for non-employees
	Transmittal Form	1094-C	1094-C or 1094-B (as applicable)
<50 FT employees	Individual Statements	None	1095-B
	Transmittal Form	None	1094-B

A reporting entity must provide a copy of each individual statement it completes to the IRS as part of its information return and must also provide a copy to the individual. Statements must be provided to individuals by January 31 following the end of the reporting year and returns are due to the IRS by March 31 if filing electronically (required if filing 250+ forms) or by the last day of February if filing by paper. Reporting for calendar year 2014 was voluntary. The first mandatory returns are due in early 2016 for 2015 calendar year reporting.

2015 Final Forms & Instructions

The final forms and instructions adopt some, but not all, of the changes proposed in the 2015 draft versions and also incorporate some new clarifications. Most notably, the final instructions do not

adopt the IRS' position in the draft 2015 instructions regarding Health Reimbursement Arrangements (HRAs), which would have required employers of all sizes to report on enrollment in HRAs that are integrated with insured group health plans. Among other things, the instructions also amend prior guidance regarding the manner in which COBRA offers of coverage are reported for terminating employees and clarify reporting procedures for multiemployer plan coverage. Following are highlights of changes reflected in the final 2015 documents.

B Series and C Series Forms – General

- **Increased Penalties.** In general, penalties are increased from \$100 per return to \$250 per return and penalty cap is increased from \$1.5M to \$3M.
- **Hand and Electronic Delivery.** Hand delivery of statements to individuals is acceptable. In general, electronic delivery is permissible only with the recipient's affirmative consent. However, electronic delivery of statements reporting coverage under an expatriate health plan may be furnished electronically unless the recipient explicitly refuses consent or requests a paper copy.
- **Filing Extension for Returns to IRS:** Employers that file Form 8809 before returns are due are granted an automatic 30-day extension. An additional 30-day hardship extension may be requested.
- **Filing Extension for Individual Statements.** Employers may request an extension of time to furnish individual statements by sending a letter to the IRS explaining the reason for the delay. The letter must be postmarked no later than the date on which the statements are due to the recipients. If approved, the extension will generally be for a maximum of 30 days.
- **Waiver of Electronic Filing Requirement.** Employers may request a waiver from having to file information returns electronically via IRS Form 8508. The form must be filed at least 45 days before the due date of the returns.
- **Corrections:** If an employer determines there was an error on a return filed with the IRS and/or provided to an individual, the employer must provide a corrected return as soon as possible. This includes corrections due to retroactive changes in coverage that are processed after forms are issued.

Form 1095-C Individual Statement

- **Plan Year Indicator:** A new field is added to Part II to indicate the first month of the plan year (response is optional for 2015).
- **Safe Harbor Code 2C:** If employee enrolled in coverage, code 2C (employee enrolled in coverage) should be entered on line 16 regardless of whether any other 2 Series code might apply, except code 2E (multiemployer interim relief), and except if offer of coverage code 1G (not a full-time employee during the year and enrolled in self-insured plan) is entered on line 14.
- **COBRA Coverage:** For terminating employees, an offer of COBRA coverage should not be reported as an offer of coverage on line 14, regardless of whether coverage is elected (offer of coverage code 1H (no offer of coverage) should be entered). For active employees losing eligibility, an offer of COBRA coverage should be reported in the same manner and using the same code as an offer of that type of coverage to any other active employee.
- **Multiemployer Arrangement Interim Guidance:** Offer of coverage code 1H (no offer of coverage) should be entered on line 14 for any month for which an employer enters safe

harbor code 2E (employer required to contribute on behalf of employee to multiemployer plan offering affordable minimum value coverage to eligible employees and dependents) on line 16, regardless of whether the employee was eligible to enroll or enrolled in the multiemployer plan.

- Break in Service: If an employee has a break in service after which he or she must be treated as a continuing employee rather than a new hire according to 4908H regulations, for reporting purposes the employee would still be treated as an employee during the break in service unless his or her employment was terminated during the break.
- HRAs: Employers with either a self-insured or an insured major medical plan and an HRA are not required to report in Part III HRA coverage for individuals covered by both plans. Employers with an HRA are required to report HRA coverage for any individual who is enrolled in the HRA but not in a major medical plan of the employer.

Form 1094-C Transmittal Form

- Determining ALE Status: Employers may determine ALE status for 2015 by reference to a period of at least six consecutive months in 2014 rather than the entire 2014 calendar year and may disregard an employee for any month in which the employee has coverage under a plan described in section 4980H(c)(2)(F) (generally, TRICARE or Veterans Administration coverage).
- 98% Offer Method: When determining whether it offered affordable minimum value coverage to at least 98% of the employees for whom it is filing a Form 1095-C, the employer should take into account all months during which the individuals were employees and not in a limited non-assessment period rather than every month of the calendar year. In addition, if any ALE member of an Aggregated ALE Group uses the 98% Offer Method and is thus not required to identify which employees are full-time, all members of the group should report average number of total employees in Part IV rather than average number of full-time employees.
- Counting Total Number of Employees: A fifth option is added for the day of the month employers may use to count total number of employees each month. In addition to the first day of the month, the last day of the month, the first day of the first payroll period that starts during each month, and the last day of the first payroll period that starts during the month, employers have the option to count employees as of the twelfth day of each month.

Form 1095-B Individual Statement

- HRAs: Employers with either a self-insured or an insured major medical plan and an HRA are not required to report HRA coverage for individuals covered by both plans. Employers with an HRA are required to report HRA coverage for any individual who is enrolled in the HRA but not in a major medical plan of the employer.

Employers should be working to determine how their organizations will address these reporting requirements. If you have not already begun to develop a plan for tracking and reporting the required information, we recommend employers begin by reviewing the IRS reporting forms and instructions and reaching out to their benefits administration, payroll, HRIS, and/or electronic tax filing providers to discuss what solutions they may have developed to support fulfillment of the reporting requirements.

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 Two Months

- Sep. 2015: IRS Issues Final Forms [1094-B](#), [1095-B](#), [1094-C](#), [1095-C](#), [Series B Instructions](#) & [Series Instructions](#)
- Sep. 2015: IRS Issues [Notice 2015-68 Information Reporting on Minimum Essential Coverage](#)
- Sep. 2015: IRS Issues [Proposed Rules on Minimum Value](#)
- Aug. 2015: ACA FAQs Part XXVIII – [Transparency Reporting](#)
- Aug. 2015: IRS Issues Draft Forms [1094-B](#), [1095-B](#), [1094-C](#), [1095-C](#), [Series B Instructions](#) & [Series Instructions](#)

About Trion Group, a Marsh & McLennan Agency, LLC (Trion) HCRAAlert!

The information provided in this alert is not legal advice. Rather, the content is intended as a general overview of the subject matter covered. The Patient Protection and Affordable Care Act (“PPACA”) is a complex law. Any statements made by Trion concerning tax, accounting, or legal matters are based solely on our experience as insurance brokers and risk consultants and are not to be relied upon as accounting, tax, or legal advice. Those reading this alert are encouraged to seek direct counsel from your own tax, accounting and legal advisers as to whether your policies and procedures, health plans, and employee contribution requirements are compliant with the PPACA and with any other questions you have regarding this law.

While Trion strives to ensure the accuracy and completeness of these alerts, the publisher, authors, editors, and contributors of the contents are not responsible for any errors or omissions and are not obligated to provide updates on the information presented herein. Trion does not control or guarantee the accessibility, accuracy, relevance, timeliness, or completeness of outside information for which links may be provided, nor do we endorse any views expressed or products or services offered by such organization or authors.

Content provided in collaboration with our compliance partner, Marathas, Barrow and Weatherhead LLP.

About Trion Group, a Marsh & McLennan Agency, LLC (Trion) HCRAAlert!

Trion's *HCRAAlert!* emails are provided with the understanding that they do not provide legal, accounting, or other professional advice or service. While Trion strives to ensure the accuracy and completeness of these alerts, the publisher, authors, editors, and contributors of the contents are not responsible for any errors or omissions, or for the failure to report a change in any laws, decisions, regulations, interpretations, or other pronouncements. Trion does not control or guarantee the accessibility, accuracy, relevance, timeliness, or completeness of outside information for which links may be provided, nor does it endorse any views expressed or products or services offered by such organization or authors.

The Patient Protection and Affordable Care Act is a complex law. Any statements made by Trion Group, a Marsh & McLennan Agency, LLC Company concerning tax, accounting, or legal matters

are based solely on our experience as insurance brokers and risk consultants and are not to be relied upon as accounting, tax, or legal advice. We recommend that you seek the advice of your own tax, accounting and legal advisers as to whether or not the health plans you select are compliant with the Patient Protection and Affordable Care Act, including the minimum essential coverage requirements.



MARSH & MCLENNAN
AGENCY

