



...From the Employer Perspective

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Final Regulations on Employer Reporting Requirements Related to Employer Mandate

The Internal Revenue Service (IRS) recently released two final regulations on reporting requirements for health insurance ([IRC Section 6056](#)) and minimum essential coverage ([IRC Section 6055](#)) offered by large employers to their full-time employees (FTEs). These reporting requirements enable the IRS to administer the compliance rules for the individual and employer mandates and enable each FTE to determine if they can claim a premium tax credit on their individual tax returns, beginning with the 2015 tax year. Because the regulations are closely related and have similar administrative processes, this HCR News will discuss them as one set of rules.

The final regulations confirm most of the September 2013 proposed reporting regulations, with the primary exceptions being an effort to streamline administrative demands on employers by a) combining two reports into one form and b) associating the distribution process and timing with employers' current Forms W-2 and W-3 individual income tax return filings.

SUMMARY OF REGULATIONS AND ACTION STEPS FOR EMPLOYERS

- Any employer impacted by the employer mandate rules of PPACA must be prepared to track and report by month the employer-sponsored health insurance plan and minimum essential coverage offered to each FTE.
- Similar to current annual employee income reporting processes, there will be a separate Form 1095-C that must be provided to each FTE and to the IRS on the same reporting dates and typically in the same reporting methods as Forms W-2 and W-3 for annual individual wages.
- The required Form 1095-C information from the employer focuses on certifying minimum value, affordable health insurance coverage for each FTE and minimum essential coverage for each FTE and his/her dependents and spouse.
- There are three alternative simplified reporting methods offered in the final regulations. The tradeoff is these methods are available only to employers providing minimum value, affordable coverage to essentially all FTEs and minimum essential coverage to essentially all FTEs and their dependents and spouses.

INFORMATION REPORTING OF HEALTH INSURANCE (Section 6056) AND MINIMUM ESSENTIAL COVERAGE (Section 6055)

What is the basic requirement and purpose of each regulation?

IRS Section 6056 requires applicable large employers to file aggregate reports to the IRS and individual statements to each FTE about the health care coverage, if any, they offer to FTEs, beginning with the 2015 calendar year. The aggregate employer report provides the IRS the necessary information to administer the employer shared responsibility (employer mandate) provisions, and the individual employee reports help the employee determine whether, for each month during the calendar year, they can claim a premium tax credit on their individual tax returns.

IRS Section 6055 requires large employers having self-funded plans and health insurers providing insured employer health plans to file aggregate reports to the IRS and individual statements to each FTE about the minimum essential coverage (MEC) provided to FTEs and their covered dependents, beginning with the 2015 calendar year. The employer or insurer provides aggregate information about the type and period of coverage for each individual, and the individual statement enables each individual and the IRS to verify the months each person was covered by a MEC.

Who is considered an applicable large employer (ALE)?

Each employer who employs on average 50 full-time employees and full-time equivalents is considered an ALE, similar to the definition for the employer mandate requirements. In a controlled group situation, all of the member employers in the group are considered one employer for purposes of determining the 50 FTE limit (similar to employer mandate rules), but each of the member employers separately must satisfy the reporting requirements. Also, the recent employer mandate final regulations allow employers with less than 100 FTEs to defer satisfying employer mandate requirements until 2016—however, these employers still must satisfy all of the reporting requirements for the 2015 calendar year.

What are the key dates for distributing the reports?

The report to each FTE must be provided by January 31, 2016, for the 2015 tax year and by the same date for each subsequent tax year. The employer report in general must be filed by February 28 (March 31 if electronically filed) of the subsequent calendar year, except for the 2015 calendar year, when the employer report must be filed by March 1, 2016 (March 31 if electronically filed) because February 28 is a Sunday.

The individual mandate is effective January 1, 2014, but a July 2013 IRS Notice provided transition relief until 2015 for employers to satisfy both the employer mandate requirements as well as the reporting requirements for both the employer and individual mandate. At this time, it appears 2014 verification of satisfying the individual mandate will be based on a personal honor

system, and any completion of the employer reporting requirements for calendar year 2014 is voluntary.

Is there a specific new form that the ALE or insurer must file?

Yes, similar to the separate Forms W-2 and W-3 for reporting annual wages, the final regulations establish a separate Form 1095-C as the employee statement and Form 1094-C as the aggregate information transmittal to the IRS. These forms combine the required information for satisfying both Section 6056 (employer mandate) and Section 6055 (individual mandate) reporting to simplify the process for employers.

There are two sections on the 1095-C form: a top section (Part A) applying to Section 6056 reporting and a bottom section (Part B) applying to Section 6055. An ALE sponsoring a self-funded plan completes both Parts A and B. An ALE with an insured plan completes only Part A and the insurer will provide the Part B information.

The template for Form 1095-C and the combined employer/health insurer reporting process for an insured health plan will be issued in the near future.

Are there rules for how to file the forms?

Similar to the income tax reporting requirements, these final regulations require electronic filing of the 1095-C and 1094-C forms if an ALE files 250 or more Part A reports during the calendar year. In addition, the 1095-C form can be sent to employees in the same annual mailing or electronically (with employee consent) as the Form W-2 statement to streamline the process and reduce expense.

Also similar to Forms W-2 and W-3 reporting, a third party service provider, including the administrator of a multiemployer plan or a specific member employer in a controlled group or governmental unit or agency, can complete and distribute the forms on behalf of an ALE. However, the responsibility for the completion and distribution of the forms remains with each separate ALE.

The regulations allow relief from penalties for the 2015 reporting requirements if the employer can show it has made “good faith efforts” to comply.

What information is required on the forms?

The final regulations require employers, insurers and/or other reporting entities to include the following information:

- Part A of Form 1095-C (Section 6056 for employer mandate):
 - Information about the employer offering coverage, including employer or third-party contact information;

- The number of FTEs by month, including whether date of coverage is effected by a waiting period;
- For each FTE, information about the minimum value coverage (if any) offered to the FTE for each month, including the lowest employee cost for self-only coverage offered.
- Part B of Form 1095-C (Section 6055 for individual mandate):
 - Information about the entity offering minimum essential coverage, including employer, insurer or third-party contact information;
 - Identifying information (Social Security number, or date of birth if necessary) about which individuals (employee and dependents) are enrolled in MEC and the months they are covered (defined as at least 1 day enrolled/eligible for benefits during the month).

More details about the required information will be available when the draft Forms are issued.

Are certain types of coverage exempt from the reporting rules?

Yes, the regulations confirm employers do not have to provide information for the following coverages:

Health Savings Accounts,

- Onsite medical clinics,
- Wellness programs included as part of the group health plan,
- Medicare Part B,
- Supplemental coverage to a primary medical plan or a government-sponsored plan, and
- Coverage that is not minimum essential coverage.

Are there “simplified reporting requirements” for employers satisfying specific criteria?

The final regulations allow three alternative reporting methods designed to lessen the employer reporting burden to some or all of an employer’s FTEs. Which method may apply depends on the employer meeting “qualifying offer of coverage” standards.

1. Alternative reporting based on certification of qualifying offers: An employer will be able to report simplified information in a simplified employee statement (guidance on what this means still to come from IRS) to applicable FTEs if it certifies that for all 12 months of the calendar year during which the employees were FTEs:

- Minimum value coverage was offered to the FTE,
- The employee cost for employee-only coverage was no more than 9.5% of the federal poverty level (i.e., for 2015 that’s an employee monthly contribution of \$92 or less), and

- The employer offered MEC (doesn't have to be minimum value) to the employee's dependents and spouse.

For employees who are FTEs for less than 12 months during the calendar year due to new employment or termination, waiting period or a variable hour look-back situation, the general reporting requirements previously described must be followed.

2. Reporting without individual FTE identification (98% offer): An employer will be able to report without specifying the number or identifying FTEs if it certifies that 98% of FTEs during the year are offered minimum value and affordable coverage.
3. 2015 alternative reporting method (95% offer): For 2015 only, the Form 1095-C reporting will be simplified to employee's name, Social Security number, address and an indicator code of the months the employer offered the following coverage to at least 95% of FTEs and their dependents and spouses:
 - Minimum value coverage to the FTE,
 - The employee cost for employee-only coverage was no more than 9.5% of the federal poverty level (i.e., for 2015 that's an employee monthly contribution of \$92 or less), and
 - The employer offered MEC (doesn't have to be minimum value) to the employee's dependents and spouse.

PPACA REGULATIONS & GUIDANCE ISSUED IN THE LAST 3 MONTHS

- Jan. 2014: [Departments Issue FAQs on Preventive Services, Cost-Sharing Limits, Expatriate Plans, Wellness Programs, Fixed Indemnity Insurance and MHPAEA](#)
- Jan. 2014: [IRS Issues Proposed Regulations on Minimum Essential Coverage and Other Rules Regarding the Shared Responsibility Payment for Individuals](#)
- Feb. 2014: [IRS Issues Final Regulations on Shared Responsibility for Employers](#)
- Feb. 2014: Agencies Issue [Final Regulations](#) and [Additional Proposed Regulations](#) on 90-Day Waiting Period
- Mar. 2014: [CMS Issues Guidance Regarding Subsidies for Non-Exchange Plan in Exceptional Circumstances](#)
- Mar. 2014: [CMS Issues Bulletin Regarding Extended Transition of Non-ACA-Compliant Plans](#)
- Mar. 2014: Agencies Issue Final Rules on Employer Information Reporting Requirements [6055](#) and [6056](#) and [Fact Sheet](#)
- Mar. 2014: [HHS Issues Notice of Benefit and Payment Parameters for 2015](#) and [Fact Sheet](#)

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