

# Legislative Brief

## HCR - ACA Reporting

October 2016

### Soliciting Tax Identification Numbers and Section 6055 Reporting

**SUMMARY:**

- The IRS issued [proposed regulations](#) for Sec. 6055 reporting of minimum essential coverage. Employers with self-insured health plans must report this information to the IRS on either Form 1095-B or in Part III of Form 1095-C, if coverage is provided by an applicable large employer.

Section 6055 reporting identifies those individuals who are enrolled in minimum essential coverage. In order to accomplish this, the reporting forms require the inclusion of each individual’s tax identification number (“TIN”). For an individual, this is his or her social security number. While employers generally have the SSNs of their employee, they are less likely to have this information for an employee’s spouse or dependents. The proposed regulations include new guidance relating to the solicitation of TINs and the solicitation process employers should follow in order to avoid any penalties for filing without the proper TINs.

As long as reasonable efforts are made to secure the TIN of covered individuals, an employer is permitted to report a date of birth when no TIN has been provided. The proposed regulations lay out the following, 3-point process that should be used in order to meet the “reasonable efforts” guideline:

**ACTION TO BE TAKEN:**

- **Solicitation**

<b>1. Initial Solicitation</b>	The first step of the TIN solicitation process is the initial request for an individual’s TIN when the employer receives a substantially complete application for new coverage or to add an individual to existing coverage. Therefore, receipt of an employee’s application would be considered the initial solicitation.
<b>2. Second Solicitation</b>	If the TIN is not initially received, then a 2nd solicitation must be made no later than 75 days after the initial solicitation.
<b>3. Third Solicitation</b>	If the TIN is not received from the 2nd solicitation then a 3rd solicitation must be made by Dec. 31 of the year following the initial solicitation.

- **Documentation.** Although guidance has yet to be issued regarding sufficient documentation of a solicitation, at the very least documentation of a solicitation effort should record the date solicitation occurred, to whom, method of delivery and proof of delivery (e.g., certified mail receipts).

As mentioned at the Kapnick HR seminar last month, if individuals are already enrolled in coverage, July 29, 2016 is to be used as the initial solicitation date as long as a TIN was solicited as part of the application for coverage or it was solicited at any other point before July 29, 2016. The second solicitation required within 75 days after July 29, 2016, was October 12, 2016. The third solicitation must occur by December 31, 2017. If you are required to make an effort to solicit TINs under the proposed regulations because you offer a self-funded plan, you should begin making immediate efforts to do so, especially for those individuals already enrolled in coverage.

Although this process is part of a proposed rule, the IRS has stated that employers may rely on the process pending the release of a final rule. If you have any questions regarding soliciting TINs, please contact your Client Executive.

The Affordable Care Act has many complex requirements for employers. Please contact Kapnick Insurance Group with any questions about how you can prepare for those requirements. This Kapnick Insurance Group Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal or tax advice. The information contained in this communication is intended to provide general information regarding employee benefits law and related topics, and is based on general information available at the time it was prepared. Readers should contact their tax and/or legal counsel for advice that is appropriate to their specific circumstances. This information cannot be used by any taxpayer to avoid tax penalties.