

Health Care Reform

Simplifying Reform - ACA Reporting

IRS RELEASES FINAL ACA REPORTING FORMS

SUMMARY:

- IRS issued final forms & instructions for IRC Sections 6055 and 6056 reporting. Simplified reporting is available if certain conditions are met.
 - **6055 REPORTING:** 6055 reporting is required if a plan provides minimum essential coverage (MEC). All employers, regardless of size, that offer minimum essential coverage are subject to 6055 reporting requirements.
 - Form [1094-B](#) (transmittal)
 - Form [1095-B](#) (individual statement/return)
 - [Instructions for Forms 1094-B and 1095-B](#)
 - **6056 REPORTING:** Each applicable large employer (ALE) under 4980H (*i.e.*, an employer with 50 or more full-time employees, including full-time equivalents) must perform 6056 reporting regarding whether the health coverage offered (or not offered) to full time employees and their dependents is qualified, provides minimum value, and is affordable under the ACA Employer Mandate.
 - Form [1094-C](#) (transmittal)
 - Form [1095-C](#) (individual statement/return)
 - [Instructions for Forms 1094-C and 1095-C](#)
 - **CONSOLIDATED REPORTING:** Applicable large employers that sponsor self-funded plans may perform 6055 and 6056 reporting via consolidated reporting on Form 1095-C (*i.e.*, 6055 reporting can be performed under Part III of Form 1095-C; 6056 reporting is performed under Parts I and II of Form 1095-C).
- Reporting is on a calendar year basis, regardless of an employer's plan year.
- **Non-calendar year plans:** Some transitional relief from the 4980H penalty is available for non-calendar year plans, for the months in 2015 prior to the beginning of a plan's plan year, if certain requirements are met. Reporting is still required for the months prior to the beginning of the plan year beginning in 2015.
- **Small applicable large employers:** Although small applicable large employers (*i.e.*, those employers with 50-99 FTEs) may have transitional relief from the IRC 4980H penalty for 2015 if certain requirements are met, they must still perform ACA reporting for 2015.
- **NEW:**

The IRS issued a new publication, [Publication 5196, Understanding Employer Reporting Requirements of the Health Care Law](#), to help employers prepare for reporting in 2016.

The final instructions provide the following new or clarifying information:

 - A new option for applicable large employers (ALEs) that need to report information for non-employees (e.g., COBRA beneficiaries)
 - Changes to the alternative methods of IRC 6056 reporting
 - Truncation of employer identification numbers (EINs) on any statement furnished to employees or individuals (truncation not permitted on filings to the IRS)
 - Determination of the total employee count for an ALE for purpose of Form 1095-C, Part III, Column (c) can be made by either using: (1) the first or last day of the first payroll period that starts during each month, or (2) the first or last day of each month
 - All ALEs, including U.S. ALEs, should include a country code with the employer's address in Part I of Form 1095-C.
 - If spouses are employed by same ALE, the enrollment information should be reflected only on the Form 1095-C for the employee who enrolled in coverage (but the form would report the other employee family members as covered individuals)
 - Generally an ALE is not required to file a Form 1095-C for an individual who, for all months of a calendar year, is either not an ALE employee or is in a limited non-assessment period

Exceptions:

 - An employee must be included in the total employee count reported on Form 1094-C Part III, column (c) for the months in which the employee was an ALE employee
 - An employer must file a Form 1095-C for an employee if the employee enrolled in self-insured employer sponsored coverage during his or her limited non-assessment period in order to report coverage information for the year.

The IRS released final versions of the forms and related instructions that employers generally must use to report under IRC Sections 6055 and 6056. As noted in our prior [article](#), these forms are required to be filed for 2015 at the beginning of 2016 (reporting entities may voluntarily file forms for 2014 coverage). Please refer to our prior article for a detailed discussion of the ACA reporting requirements. This article focuses on any clarifications, changes or new relief provided by the IRS in the instructions to the final forms.

2015 Reporting Deadlines

	6055 Reporting	6056 Reporting
To Individual	Form 1095-B (statement/return) or alternate statement Due by Feb. 1, 2016 to responsible individual	Form 1095-C (statement/return) or alternate statement Due by Feb. 1, 2016 to full-time employees
To IRS	Form 1094-B (transmittal) AND Form 1095-B (statement/return) for each individual Due by Feb. 29, 2016; if filed electronically due by Mar. 31, 2016 (filers of 250 or more statements must file returns electronically)	Form 1094-C (transmittal) AND Form 1095-C (statement/return) for each full-time employee Due by Feb. 29, 2016; if filed electronically due by Mar. 31, 2016 (filers of 250 or more statements must file returns electronically)

Forms to be Filed (based on size, funding and marketplace coverage)

	Fully Insured <50 FTEs	Fully Insured 50+ FTEs	Self-Funded < 50 FTEs	Self-Funded 50+ FTEs	Marketplace Coverage
Forms to employee	1095-B	1095-B 1095-C (Parts I and II only)	1095-B	1095-C (all parts—Parts I, II and III)	1095-A
Filed by	Insurer	Insurer/Employer	Plan Sponsor (generally the employer)	Plan Sponsor (generally the employer)	Marketplace
Forms to IRS	1094-B (with copies of all 1095-Bs)	1094-B (with copies of all 1095-Bs) 1094-C (with copies of all 1095-Cs)	1094-B (with copies of all 1095-Bs)	1094-C (with copies of all 1095-Cs)	1094-A
Filed by	Insurer	Insurer/Employer	Plan Sponsor	Plan Sponsor	Marketplace

NEW Option for Applicable Large Employers Reporting Enrollment Information for Non-Employees

The final instructions for Forms 1094-C and 1095-C include a new option for ALEs reporting information about non-employees. This new option allows employers to report employer-sponsored self-insured health coverage for non-employees (and their family members) using either: (1) Forms 1094-B and 1094-C or (2) Part III of Form 1095-C. This new option is only available to ALEs that sponsor self-insured health plans that have individuals enrolled in coverage for 1 or more calendar months of the year, but who are not an employee for any calendar month of the year (e.g., a non-employee director, a retiree who retired in a previous year, and a COBRA beneficiary). A “non-employee” does not include an individual who has coverage through an employee’s enrollment (e.g., as a spouse or dependent).

CHANGES to Alternative Methods of Reporting Under IRC Section 6056

Two alternative methods of reporting are available under Section 6056 to applicable large employers (ALEs)—the **Qualifying Offer Method** (and the Qualifying Offer Method Transition Relief for 2015) and the **98 Percent Offer Method**.

- **Qualifying Offer Method** (and the Qualifying Offer Method Transition Relief for 2015) allows eligible ALEs to provide simplified employee statements to certain employees, in lieu of a copy of the Form 1095-C, if the ALE made a qualifying offer to one or more of its full-time employees. A “qualifying offer” occurs when, for all months during the year in which an employee was a full-time employee with respect to whom an employer responsibility penalty could apply, the ALE offered minimum-value coverage that provides employee-only coverage at a cost to the individual of no more than about \$1,100 in 2015 (9.5% of the federal poverty line), combined with an offer of coverage to the employee’s family (spouse and dependents).

While the Employer Shared Responsibility rule only requires ALEs to offer coverage to dependent children (not spouses), ALEs must offer coverage to a full-time employee’s spouse and dependent children in order to use the qualifying offer method of reporting. Note: An ALE must use the general method of reporting for those employees who did not receive a qualifying offer for all 12 months.

The final instructions made the following changes to the Qualifying Offer Method:

- Additional information must be included in the simplified employee statements. Previously a simplified Form 1095-C to the IRS only required the employee’s name, SSN, address and an indicator code showing that a qualifying offer was made for all 12 months of the calendar year. The simplified statement to the employee generally required only a statement that informed the employee that he and his spouse and dependents (if any) received a qualifying offer for all 12 months of the calendar year, and therefore are generally ineligible for a premium tax credit for all of those 12 months. An additional statement is now required to the employee that directs the employee to see [IRS Publication 974, Premium Tax Credit \(PTC\)](#), (currently in draft form) for more information regarding eligibility for the premium tax credit.

- The final instructions also clarified that ALEs may not use the alternative method of furnishing Form 1095-C to employees under the Qualifying Offer Method (or the Qualifying Offer Method Transition Relief for 2015) for **employees who enrolled in self-insured coverage**. For these employees, the ALE must furnish the information reporting enrollment in the self-insured coverage on Form 1095-C, Part III. The ALE may provide this information to the employee by furnishing a copy of Form 1095-C as filed with the IRS (with or without the statements regarding any qualifying offer the employee received or the employee's premium tax credit eligibility).
- **Qualifying Offer Method Transition Relief for 2015.** As noted above, generally an applicable large employer (ALE) must use the general method of reporting for any employees that did not receive a qualifying offer for all 12 months. However, solely for 2015, if an ALE makes a qualifying offer to at least 95% of its full-time employees (and their spouses and dependents), the ALE can perform simplified reporting as follows:
 - **Qualifying Offer for all 12 Months:** Statement to employee will inform employee that the employee (and employee's spouse and dependents, if any) will not be eligible to claim a premium tax credit for any of the 12 calendar months and direct the employee to see [IRS Publication 974, Premium Tax Credit \(PTC\)](#), for more information regarding eligibility for the premium tax credit.
 - **Qualifying Offer for less than 12 Months:** Statement to employee will inform employee that the employee (and employee's spouse and dependents, if any) may be eligible to claim a premium tax credit for 1 or more of the 12 calendar months and must provide a name and phone number that the employee can contact for further information regarding the offer of coverage.
 - **No Qualifying Offer for all 12 months:** Statement to employee will inform employee that the employee (and employee's spouse or dependents, if any) may be eligible to claim a premium tax credit for 1 or more of the 12 calendar months and must provide a name and phone number that the employee can contact for further information regarding the offer of coverage.
- **98 Percent Offer Method** is generally available to an ALE that certifies on its transmittal form (Form 1094-C) that it offered MEC that is affordable and provides minimum value to at least 98 percent of its full-time employees on whom it reports in its Section 6056 return. For purposes of this alternative reporting, coverage is treated as affordable if the cost of employee-only coverage satisfies any applicable affordability safe harbor under the employer shared responsibility rules.

This alternative method allows eligible ALEs to provide Section 6056 reporting without:

 - Determining whether each employee offered coverage is a full-time employee; or
 - Specifying the number of the employer's full-time employees.

This alternative method is designed to ensure that the employer has offered coverage to "substantially all" of its full-time employees, and therefore is not subject to an employer shared responsibility penalty, without having to know which reported employees are full-time and which are part-time. Although this alternative method allows reporting without identifying or specifying the number of full-time employees, it does not exempt the employer from any penalties that might apply for failure to report with respect to any full-time employee. Thus, reporting is still required under the normal rules for all full-time employees, including those not offered coverage.

The final instructions made the following clarification to the 98% Offer Method:

 - The final instructions clarify that **ALEs must also offer MEC to those employees' dependents** to be eligible to use the 98 Percent Offer Method. For this purpose, the term "dependent" is defined to include an employee's child, but does not include a spouse.

TRANSITIONAL RELIEF—Non-Calendar Year Plans

As mentioned in the summary, ACA reporting is required beginning in 2015 and is performed on a calendar year basis. Transitional relief for a non-calendar year plan is available (i.e., the plan will not be subject to the employer mandate penalty for any months prior to the beginning of its 2015 non-calendar year plan year) if the applicable large employer (ALE) has not modified its plan after December 27, 2012 to begin on a later date and one of the following applies:

- The non-calendar year plan **covered** at least 1/4 of the ALE's **total employees** as of any date in the 12 months ending on February 9, 2014; or
- The non-calendar year plan **covered** at least 1/3 of the ALE's **full-time employees** as of any date in the 12 months ending on February 9, 2014; or
- At least 1/3 of the ALE's **total employees** were **offered coverage** under the non-calendar year plan during the most recent open enrollment period before February 9, 2014; or
- At least 1/2 of the ALE's **full-time employees** were **offered coverage** under the non-calendar year plan during the most recent open enrollment period before February 9, 2014.

If any of these above requirements apply, the employer will not be liable for a penalty for months in 2015 before the 2015 plan year begins with respect to employees who are offered affordable, minimum value coverage no later than the first day of the 2015 plan year and who would not have been eligible for coverage under any calendar year group health plan maintained by the employer as of February 9, 2014.

TRANSITIONAL RELIEF—Applicable Large Employers Between 50 and 100 Full-Time Employees (including full-time equivalents)

Generally a mid-size employer (50-99 full-time employees or equivalents) can take advantage of a one-year transitional relief period from the employer mandate penalty, delaying compliance until the first day of the employer's 2016 plan year. In order to be eligible for this transitional relief, the employer is required to certify on its 1094-C transmittal form for calendar year 2015 that it met all of the following eligibility conditions:

- Employer **did not modify its plan year** after February 9, 2014 to begin on a later calendar date;
- Employer **did not reduce workforce nor hours of service** during 2014 to avoid compliance; and
- Employer **did not eliminate or materially reduce health coverage** offered on February 9, 2014 through the last day of the 2015 plan year.
 - The employer contribution toward employee-only coverage must continue at either the same percentage of the total cost of coverage, or at least 95% of the dollar amount contributed on February 9, 2014.
 - If benefits are changed, the coverage provides minimum value after the change.
 - Employer does not amend its plan to reduce eligibility of employees or their dependents.

TRACKING INFORMATION FOR ACA REPORTING (BY FORM)

For ease of reference, below is a chart of the information that should be tracked for ACA reporting for each form.

FORM	INFORMATION TO BE TRACKED
FORM 1094-B (transmittal)	<ul style="list-style-type: none"> • General employer information: employer name, employer identification number, contact person, contact telephone number, street address, city, state, country and zip code • Total number of Forms 1095-B submitted with the transmittal
FORM 1095-B (statement)	<p><u>Part I - responsible individual (policy holder) information that must be provided:</u></p> <ul style="list-style-type: none"> • Responsible individual’s name, social security number (or date of birth), address • Code for origin of policy: A –SHOP, B-employer sponsored coverage, C-government sponsored program, D-individual market insurance, E-multiemployer plan or F-miscellaneous minimum essential health coverage • SHOP marketplace identifier (if applicable) <p><u>Part II (only complete if origin code above is A or B)</u></p> <ul style="list-style-type: none"> • General employer information: employer name, employer identification number, contact person, contact telephone number, street address, city, state, country and zip code <p><u>Part III (issuer or other coverage provider)</u></p> <ul style="list-style-type: none"> • Name, employer identification number, contact phone number, street address, city, state country and zip code <p><u>Part IV (the following information must be provided for each covered individual):</u></p> <ul style="list-style-type: none"> • Name, social security number (SSN), date of birth (if no SSN available) • Whether minimum essential coverage was provided to the covered individual for each month in 2015 (if covered all 12 months, will only check the “covered all 12 months” box) NOTE: If covered individual was covered for a single day of a month, it should be tracked as coverage for the entire month.
Form 1094-C (transmittal)	<p><u>Part I—Applicable large employer member (ALE member)</u></p> <ul style="list-style-type: none"> • General applicable large employer information: ALE name, employer identification number, contact person, contact telephone number, street address, city, state, country and zip code • The total number of Forms 1095-C submitted with the transmittal <p><u>Part II - ALE Member information</u></p> <ul style="list-style-type: none"> • Designation as authoritative transmittal for the ALE member. Generally it will be and employer will check box; however, if an employer is filing multiple forms 1095-C for multiple divisions, then only one division will be marked as authoritative. • The total number of forms 1095-C filed by or on behalf of ALE member • Whether the ALE member is a member of an aggregated ALE group • Will need to be able to cite to any offer method or transitional relief that the plan relies upon for 2015 (e.g., A - qualifying offer method, B - qualifying offer method (transitional relief), C - section 4980H transitional relief or D - 98% offer method) <p><u>Part III—ALE Member information (monthly)</u></p> <p>For each month, will need to track:</p> <ul style="list-style-type: none"> • Whether minimum essential coverage was offered; • Number of full-time employees; and • Total number of employees. <p><u>Part IV—other ALE members of aggregated ALE group (this information will need to be provided if employer is part of an aggregated group):</u></p> <ul style="list-style-type: none"> • Name and employer identification number for each member of the aggregate ALE group
Form 1095-C (statement)	<p><u>Part I - Employee</u></p> <ul style="list-style-type: none"> • Name, address and social security number for each full-time employee (or former employee) covered by the plan during 2015 (even if for a single day) <p><u>Part II - Employee Offer and Coverage</u></p> <ul style="list-style-type: none"> • The months during the 2015 calendar year that minimum essential coverage was offered and to whom • The employee’s share of the lowest cost self-only plan offered • Whether the plan offered met minimum value and affordability for each employee <p><u>Part III - Covered Individuals (this information should be tracked if employer provides self-insured coverage):</u></p> <ul style="list-style-type: none"> • Name and social security number (or date of birth) of each individual covered during the year through the employee, and the months of the year each individual was covered

ACTION ITEMS

- As mentioned in our earlier article, employers should confirm internal systems are structured to collect any data necessary for ACA reporting.
 - Employers should request and receive written confirmation that their existing payroll providers are performing the additional data collection necessary for ACA reporting for their plans (i.e.,
 - If existing systems are inadequate, employer should assess any additional resources or software needed for ongoing ACA reporting compliance.
- Social security numbers (SSNs) are required. Since most employers do not have SSNs for dependents, efforts should be taken to obtain SSNs for dependents or, alternatively, each dependent's date of birth.
- Employers with less than 50 full-time employees (including full-time equivalents) who maintain insured health plans should confirm that their insurance carriers are presently tracking and will be performing the 6055 reporting on Forms 1094-B and 1095-B.

If you would like assistance in assessing your readiness to comply with the 6055 and 6056 reporting requirements, please contact your client executive. Kapnick has workbooks that you may use to help you track information necessary for reporting. We can also help you evaluate capabilities of firms that are marketing their services to track employees and prepare the ACA-required reports.

The health care reform law—the Affordable Care Act (ACA)—has many complex requirements for employers and health plans. Please contact Kapnick Insurance Group with any questions about how you can prepare for any of the health care reform 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 health care reform 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.

MAR