

IRS Releases ACA Employer Reporting Instructions

Issue Date: September 2014

The IRS has released draft instructions for the employer health plan reporting requirements contained in the Affordable Care Act (ACA). Applicable large employers, and small employers who offer self-funded plans, now have the information they need to start planning for the required reporting beginning in 2016 for 2015 health plan data.

Background

The ACA requires employers, plan sponsors, and insurers to report certain plan and coverage information to provide the IRS with the information necessary to administer and regulate various aspects of the ACA under its jurisdiction, including: the individual shared responsibility payments (the “individual mandate”); an individual’s eligibility for a premium tax credit when purchasing health insurance through a public exchange; and the regulation of the §4980H employer shared responsibility rules.

Effective Date and Timing of Reporting

Employer reporting is required beginning in early 2016 for 2015 employer plan and employee coverage data. Reporting will be on a calendar year basis regardless of the employer’s plan year. Employers may voluntarily report 2014 information to the IRS beginning in 2015, but this is not required.

Annual employer returns must be filed with the IRS by the last day of February (March 31, if filed electronically). Corresponding employee statements must be provided annually to full-time employees by January 31. These are the same deadlines that apply to employer W-2 reporting.

- The first employee statements must be provided by Feb. 1, 2016 (January 31, 2016 is a Sunday).
- Employer returns to the IRS are due for the first time by February 29, 2016 (2016 is a leap year!).

The IRS delayed the employer shared responsibility requirements for most employers with 50-99 FTEs until 2016; however, reporting requirements have not been delayed. Consequently, employers with 50–99 FTEs are still subject to the reporting requirements beginning in 2016 for 2015 calendar year plan data.

Which Employers Must Report?

All fully-insured and self-funded “applicable large employers” (ALE) as defined by the ACA (generally those with at least 50 FTEs) will be required to comply with some portion of the reporting requirements. ALEs who sponsor self-funded plans are subject to additional detailed individual participant coverage reporting.

Small employers who do not meet the definition of an ALE are also required to report employer offer of coverage information to the IRS if they sponsor a self-funded health plan.

Small employers who offer only fully-insured plans are not subject to the reporting requirements. Health insurance companies will report individual participant coverage details to the IRS for fully-insured plans.

Overview of Reporting Requirements

In general, the ACA health plan reporting process will work much the same as current W-2 and 1099 reporting. A statement (Form 1095) will be provided to employees with a copy going to the IRS, and employers will be required to also file at least one employer Form 1094, which provides certain employer-related plan and coverage offer information. The exact information required to be provided to the IRS will

depend on the following factors (described in more detail below). Of particular relevance is whether the employer plan is self-funded or fully-insured.

- **Employee 1095 Statements**
 - An employer is required to provide employees with a Form 1095 (most employers will use the 1095-C), which will provide coverage and employer plan information.
 - In some instances an employer will be allowed to provide an alternative, simplified statement to employees instead of a 1095.
 - An employer must also provide a 1095 for all full-time employees to the IRS.
 - Employees will use the 1095 or alternative statement to provide information to the IRS regarding their health insurance coverage when filing their personal tax returns.

- **Employer Form 1094**
 - In addition to providing employees with a Form 1095, employers must file a Form 1094 (most employers will use the 1094-C) with the IRS, which provides employer plan and offer of coverage information.

Separate requirements apply to small self-funded employers who do not qualify as an ALE, and to employers who participate in a multiemployer plan (such as a plan administered by a union). These employers will use Forms 1094-B and 1095-B. Reporting requirements for small self-funded employers and multiemployer plans are not covered in this issue brief.

Employee 1095 (or Alternative Statement) Reporting Details

The Form 1095 (or alternative statement if applicable) must be provided to any employee who was full-time for any month during the calendar year. The Form 1095 contains three parts, but not all employers must complete all three parts. The amount of information required depends on a number of factors (see below).

Form 1095 Parts

Part I – Basic employee and employer information including names, taxpayer ID numbers, address contact information, etc.

Part II – Used to report offers of coverage, employee contribution requirements, and employer safe harbors (applicable to that employee), for each month of the calendar year.

- **Offer Codes** – Employers will use codes to identify the type of coverage offered to an employee for each month of the calendar year. For example:
 - Code 1E is used if the employer offered minimum essential coverage (MEC) that provided minimum value to the employee, and at least MEC to spouses and dependents.
 - Code 1H is used if no offer of coverage is made to the employee.
- **Employee Contribution Required for Lowest Cost Plan**
 - Employers must report the amount of the employer contribution required to participate in the lowest cost plan that provides minimum value for each month in the calendar year.
 - NOTE – If the employer makes a “qualifying offer of coverage” to the employee, it is not necessary to report the required contribution on a monthly basis. A qualifying offer means:
 - The employee was offered a plan that provided minimum value, and spouses and dependents were offered at least MEC.
 - The employee’s required contribution for single coverage did not exceed 9.5% of the mainland individual federal poverty level (FPL). Based on the 2014 FPL, this would equate to a monthly employee contribution of no more than \$92.39.
- **Employer Safe Harbor Codes** – Employer will use codes to identify whether one of the employer contribution safe harbors applies to the individual for each month of the calendar year.

Part III – Used to provide monthly details on employees, spouses and dependents covered by the plan during the calendar year. Data includes name, SSN (or DOB if SSN is not available), and an indication of which calendar months the individual was covered by the plan.

Which Parts of the 1095 Do Employers Have to Complete?

- Fully-Insured Employers – Employers who sponsor only fully-insured plans must provide a 1095 to employees and complete Parts I and II, but are not required to complete Part III (which details the coverage provided on a monthly basis). The carrier providing this coverage will report to the IRS and issue a statement to covered individuals.
- Self-funded Employers – Employers who sponsor self-funded plans must provide a 1095 to employees and must complete all three parts of the 1095.
- Employers who sponsor both fully-insured and self-funded plans are required to fill out Part III only for individuals who enroll in a self-funded plan.

Alternative Statement

A fully-insured or self-funded employer who makes a qualifying offer (see above) to an employee for all 12 months of the calendar year may provide a simplified statement in lieu of providing Form 1095. However, even when an employer makes a qualifying offer and provides a simplified statement to employee, a Form 1095 must still be filed with the IRS.

The employee alternative statement must include:

- Employer name, address, EIN, and contact information; and
- A statement that for all 12 months the employee received a qualifying offer and therefore is not eligible for a premium tax credit when purchasing individual health insurance through a public exchange.

Employer 1094 Reporting Details

The employer plan information and offer of coverage Form 1094 also has three parts.

Part I – Basic employer information including name, EIN number, address, contact information, etc.

Part II – Additional information on the employer including:

- Total number of Form 1095s filed on behalf of the employer;
- Indication of whether the employer is part of an aggregated employer group based on the IRS §414 controlled group rules; and
- Certification if the employer meets certain transitional relief (such as that available for employers with 50-99 FTEs).

Part III – This section is used to report aggregate employer information for each month of the calendar year, including:

- Whether the employer offered MEC to full-time employees for each month in the calendar year;
- The total number of full-time employees for each month:
 - The number of full-time employees is determined based on IRS guidance and will depend on the method the employer chooses to use to define full-time for ACA purposes. In general, the ACA defines a full-time employee as an employee with at least 130 hours of service in a month. But employers may also choose to use the IRS measurement period safe-harbor method to define full-time;
- Total employees, both full-time and part-time for each month:
 - The employer must pick either the first or last day of the month to report total employees;
- An indication of whether the employer is part of an aggregated employer group based on the IRS §414 controlled group rules for each month; and
- An indication (by code) of whether the employer is eligible for any of the transitional relief provided in previous IRS guidance for each month:

- Code A is used to identify employers eligible for the transition relief available to employers with 50-99 FTEs.
- Code B is used to identify the months during 2015 that an employer is eligible for transitional relief for non-calendar year plans.

Simplified 1094 Reporting with 98% Offer of Coverage

Employers who qualify for the 98% offer method do not need to report the number of full-time employees for each month of the calendar year. To take advantage of this method, an employer is required to certify that:

- It offered coverage to at least 98% (not 95%) of full-time employees;
- The coverage was minimum value (60% actuarial value); and
- The coverage was affordable based on any of the employer affordability safe harbors in the ACA shared responsibility regulations.

Other 1094 Reporting Issues

- Employers may provide the IRS with a single 1094 in conjunction with all 1095s provided to the IRS, or may attach a 1094 to each 1095. If separate 1094s are submitted with the 1095s, the employer must identify one 1094 as the employer's "authoritative transmittal."
- Each employer who is a member of a controlled group is responsible for reporting for the employees of that particular employer.
- This reporting is subject to the same electronic reporting rules that apply to Form W-2.

Summary

The forms and instructions that have been released are only draft forms and may not be used to actually provide information to employees or file with the IRS. Final versions of the forms and instructions are expected to be released very soon to accommodate employers who wish to voluntarily report 2014 data.

Obviously, this new reporting imposes significant administrative obligations on ALEs. Fortunately, the optional reporting for 2014 provides employers an opportunity to test their systems and vendors in preparation for 2016. It is expected that many employers will do a "test run" of the reporting requirements for 2014 even if they have no intention of providing that data to the IRS.

Draft forms and instructions can be found on the IRS website at:

<http://apps.irs.gov/app/picklist/list/draftTaxForms.html>

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