

# Employer Reporting Requirements Summary



## Overview

The Affordable Care Act (ACA) added sections 6055 and 6056 to the Internal Revenue Code, which require insurers and certain employers to file information returns with the IRS and provide statements to participants and employees about the health insurance coverage offered to them.

The IRS will use the information provided to administer ACA employer and individual shared responsibility provisions (penalties) and to determine which employers and individuals should be subject to a penalty. The information provided will also be used to determine whether an individual is eligible for the Exchange premium tax credit.

## HBI Step-by-Step Guides

The information contained in this document is a summary of the regulations. In addition to this overview, Henderson Brothers has constructed detailed step-by-step guides to assist our large clients with completion of Forms 1094-C and 1095-C, which are the forms the IRS has created for this new reporting requirement. Each guide has been carefully designed to identify the data needed for each form, the sections and boxes that must be completed, the information that can be left blank, and the alternative reporting methods available, etc. We hope that these two guides, in combination with the other information we are providing, will help our clients report their plan information and enrollment accurately.

## Reporting Requirements

REPORTING ENTITIES	AFFECTED EMPLOYERS	FORM USED	DATA PERIOD
<b>Code §6055- Health Plan Insurers and Self-Insured Plan Sponsors</b>	All insured and self-insured plan sponsors. Insurers report for insured coverage.	1094-B Transmittal 1095-B Participant Statement (information return)	Calendar year 2015 information
<b>Code §6056- Applicable Large Employers (ALEs)</b>	Applicable large employers (those with at least 50 full-time employees, including full-time equivalents)	1094-C Transmittal 1095-C Participant Statement (information return)	

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## Filing Requirements

Under both Sections 6055 and 6056, each reporting entity will be required to file all of the following with the IRS:

- A separate **statement** for each individual who is provided minimum essential coverage (MEC)
- A single **transmittal form** for all of the returns filed for a given calendar year

## Applicable Forms

ALEs that sponsor self-insured plans	ALEs that sponsor insured plans	Small Employers that sponsor self-insured plans	Small Employers that sponsor fully-insured plans
<p>Complete: <b>Form 1094-C</b></p> <p>+</p> <p><b>All sections: Form 1095-C</b></p>	<p>Complete: <b>Form 1094-C</b></p> <p>+</p> <p><b>Sections I &amp; II: Form 1095-C</b></p>	<p>File: <b>Form 1094-B</b></p> <p>+</p> <p><b>Form 1095-B</b></p>	<p>These employers are not required to report under either Section 6055 or Section 6056.</p>
<p>To report:</p> <p>(1) Information under Section 6055 about health coverage provided; and</p> <p>(2) Information under Section 6056 about offers of health coverage.</p>	<p>To satisfy the Section 6056 reporting requirements. These employers are not required to report under Section 6055.</p>	<p>To satisfy the Section 6055 reporting requirements. These employers are not required to report under Section 6056.</p>	

## Deadlines

These forms must be filed with the IRS annually, **no later than Feb. 28 (March 31, if filed electronically)** of the year following the calendar year to which the return relates. Due to the one-year delay, the first returns required to be filed are for the 2015 calendar year, and must be **filed no later than Feb. 29, 2016** (Feb. 28, 2016, being a Sunday), **or March 31, 2016, if filed electronically.**

Each reporting entity will also be required to furnish statements annually to individuals who are provided MEC (for ALEs, this includes only full-time employees) on or before **Jan. 31** of the



year immediately following the calendar year to which the statements relate. This means that the first statements (the statements for 2015) must be furnished no later than **Feb. 1, 2016** (Jan. 31, 2016, being a Sunday). Extensions may be available in certain circumstances.

The final rules do not allow an alternate filing date for employers with non-calendar year plans. Although employers may collect information on a plan year basis, employees will need to receive their individual statements early in the year in order to have the requisite information to correctly and completely file their income tax returns for that year.

## Manner of Filing and Furnishing

Any reporting entity that is required to file at least 250 returns under Section 6055 or Section 6056 must file electronically. The 250-or-more requirement applies separately to each type of return and separately to each type of corrected return. Entities filing fewer than 250 returns during the calendar year may choose to file in paper form, but are permitted (and encouraged) to file electronically.

Individual statements may also be furnished electronically if certain notice, consent, hardware and software requirements are met (similar to the process currently in place for the electronic furnishing of employee Forms W-2). The consent must specifically identify each form; an employee's consent to receive a Form W-2 electronically may not be considered consent to also receive the employee statement under Sections 6055 or 6056 electronically. It is not sufficient for an entity to simply post the information on a website accessible to the individual (similar to the current process for furnishing SBCs), or to provide the information only upon request.

Reporting entities may also furnish the Form 1095-B or 1095-C with the Form W-2 in the same mailing. If mailed, the statement must be sent to the individual's last known permanent address or, if no permanent address is known, to the individual's temporary address. A reporting entity's first class mailing to the recipient's last known permanent address, or if no permanent address is known, the temporary address, discharges the requirement to furnish the statement, even if the statement is returned. A reporting entity that has no address for an individual should send the statement to the address where the individual is most likely to receive it.

## Controlled Group Rules

For purposes of the Section 6056 reporting requirements, related employers are treated as a single employer for determining employer size if they meet certain IRS criteria. Thus, all companies treated as a single employer under Code Sections 414(b), (c), (m) or (o) are combined and treated as a single employer for purposes of determining whether or not the employer has at least 50 full-time employees (including FTEs) and together will be a ALE. This is the same code and process we have used to determine what companies are part of a larger controlled group for section 4980H (the Play



or Pay penalties). When the combined total of full-time employees (including FTEs) meets the threshold, each separate company or ALE member is subject to the Section 6056 reporting requirements, even if a particular company or companies individually do not employ enough employees to meet the 50-full-time-employee threshold.

## Multiemployer Plans

Section 6056 reporting related to full-time employees eligible to participate in a multiemployer plan may be provided in a bifurcated manner. Under this approach, one return, filed by the multiemployer plan administrator, would pertain to the employees eligible to participate in the multiemployer plan. Multiemployer plan administrators will likely report this information on Form 1095-B.

A separate return filed by the employer would pertain to the remaining full-time employees who are not eligible to participate in a multiemployer plan.

## 6056 Employee Statement

The Section 6056 **employee statement** may be made by furnishing:

- A copy of Form 1095-C for that full-time employee (or another form the IRS designates); or
- A substitute employee statement for that full-time employee (as long as it includes all of the required information and complies with IRS procedures or other applicable guidance).

Employers should become familiar with all the terms used in this reporting process, including the definition of “full-time employee”, which is based on the employer’s look-back measurement period not current employees’ 2015 work status.

## 6056 Alternative Methods of Reporting

The final rule provides two alternative methods of reporting under Section 6056 that are intended to minimize the cost and administrative tasks for employers. In certain situations, the alternative reporting methods may allow employers to **provide less detailed information** than under the general method. The alternative reporting methods are:

- Reporting Based on Certification of Qualifying Offers (the Qualifying Offer Method)
- Option to Report Without Separate Identification of Full-Time Employees if Certain Conditions Related to Offers of Coverage Are Satisfied (the 98 Percent Offer Method)



The information provided to the IRS and the employee under Section 6056 is important for administering the ACA's employer shared responsibility rules and the premium tax credit. However, in some circumstances, only some of the information required under the general method is necessary. Accordingly, the alternative reporting methods identify specific groups of employees for whom simplified alternative reporting would provide sufficient information. Please refer to the IRS Instructions for more detail on these alternative methods.

## Reporting for Medium-sized ALEs that qualify for Play or Pay Transition Relief

The employer shared responsibility final regulations included transition relief delaying compliance for medium-sized ALEs for one year, until 2016. Medium-sized ALEs are those with at least 50 full-time employees (including full-time equivalents), but fewer than 100 full-time employees (including full-time equivalents).

ALEs eligible for this transition relief will still report under Section 6056 for 2015, as described below:

### 6056 REPORTING FOR MEDIUM-SIZED ALES

As part of the transition relief from the employer shared responsibility rules for medium-sized ALEs, the ALE must certify on its Section 6056 transmittal form for calendar year 2015 (that is, for the Section 6056 transmittal form that will be filed in 2016) that it meets the following eligibility conditions:

- The ALE employs a limited workforce of at least 50 full-time employees (including full-time equivalents), but fewer than 100 full-time employees (including full-time equivalents) on business days during 2014
- Between Feb. 9, 2014, and Dec. 31, 2014, the ALE does not reduce the size of its workforce or the overall hours of service of its employees in order to satisfy the workforce size condition
- During the coverage maintenance period (that is, the period ending Dec. 31, 2015, or the last day of the plan year that begins in 2015), the ALE does not eliminate or materially reduce the health coverage, if any, it offered as of Feb. 9, 2014.

ALEs with non-calendar year plans will also certify with regard to their 2015 plan year, including:

- The months of their 2015 plan year that fall in calendar year 2015, on the Section 6056 transmittal form for 2015 (that is, the form that will be filed in 2016)
- The months of their 2015 plan year that fall in calendar year 2016, on the Section 6056 transmittal form for 2016 (that is, the form that will be filed in 2017)

The IRS noted that the delay for medium-sized ALEs is solely for the employer for purposes of the employer shared responsibility rules, and does not affect the employee's potential eligibility for the premium tax credit. Accordingly, regardless of whether the employer is eligible for this delay, the

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Form 1095-C for each full-time employee must accurately reflect the health coverage offered to that employee (if any) during that period, including, if applicable, the required employee contribution. Thus, reporting for medium-sized ALEs is not a simplified method of reporting.

## Other Play or Pay Transition Relief

Large employers that qualify for transition relief delaying their Play or Pay compliance date to their fiscal year plan renewal and/or those that meet the 70% threshold for offering coverage will also need to report on the forms they qualify for transition relief.

## Identifying the Plan Sponsor

TYPE OF COVERAGE	PLAN SPONSOR
A self-insured group health plan maintained by a single employer	The employer
A plan maintained by more than one employer that is not a multiemployer plan (as defined in ERISA)	Each participating employer
A multiemployer plan (as defined in ERISA)	The association, committee, joint board of trustees or other group of representatives of the parties who establish or maintain the plan
A plan maintained solely by an employee organization	The employee organization
Any plan for which a plan sponsor is not identified above	The person designated by plan terms or, if no person is designated, each entity that maintains the plan

A self-insured group health plan or arrangement covering employees of related companies is treated as sponsored by more than one employer, and each employer is required to report for its employees.

Most employers that sponsor self-insured group health plans are ALEs required to report under both Section 6056 and Section 6055. ALEs apply the rules under Section 6056 for identifying the reporting entities in a controlled group. Employers in controlled groups that are not ALEs, and reporting entities (such as issuers) that are not reporting as employers:

- May report under Section 6055 as separate entities; or
- One entity may report for the group.



## Applicable Large Employers Report 6055 & 6056 Information: Forms 1094-C & 1095-C

In an effort to minimize burden and streamline the reporting process, while minimizing the need for employers and the IRS to build multiple systems to accommodate multiple forms, **the final regulations allow all ALEs to use a single combined form for reporting the information required under both Section 6055 and Section 6056.**

Under this combined reporting method, Form 1095-C will be used by ALEs to satisfy the Section 6055 and 6056 reporting requirements, as applicable:

- An ALE that sponsors a self-insured plan will complete both Sections of the combined Form 1095-C to report the information required under both Sections 6055 and 6056. Therefore, these ALEs will be able to use a single form to report information regarding whether an employee was covered.
- An ALE that provides insured coverage will also report on Form 1095-C, but will complete only the Section of Form 1095-C related to Section 6056.

Section 6055 reporting entities that are not ALEs or are not reporting in their capacity as employers (such as health insurance issuers, self-insured multiemployer plans and providers of government-sponsored coverage) will report under Section 6055 on Form 1095-B.

ALEs will also be providing only a single employee statement (with the Section 6056 information and, with respect to employers with a self-insured group health plan, Section 6055 information). Employers are permitted to mail to an employee in the same mailing one or more of the required information returns, such as the combined Section 6055 and Section 6056 employee statement and the Form W-2.

## Penalties

A reporting entity that fails to comply with the Section 6055 or Section 6056 reporting requirements may be subject to the general reporting penalties for:

- Failure to file correct information returns (under Code Section 6721)
- Failure to furnish correct payee statements (under Code Section 6722)

The penalty is generally **\$100 for each return**, up to \$1,500,000 per calendar year. However, penalties may be waived if the failure is due to reasonable cause and not to willful neglect.

In addition, if the reporting entity corrects the failure within 30 days after the required filing date, the penalty will be reduced to \$30 for each return, up to a maximum of \$250,000 per calendar year. Likewise, if the reporting entity corrects the failure more than 30 days after the required filing date, but before Aug. 1 of that year, the penalty will be reduced to \$60 for each return, up to \$500,000 per



calendar year. Lower annual penalty limits may apply for reporting entities with average annual gross receipts of up to \$5,000,000 for the most recent 3 taxable years.

However, failures due to intentional disregard of the filing requirement (or the correct information reporting requirement) will have no penalty reduction, and the penalty will be equal to \$250 (or, if greater, 10 percent of the aggregate amount of the items required to be reported correctly).

## Short-term Relief from Penalties

The final regulations also include short term relief from penalties to allow additional time to develop appropriate procedures for data collection and compliance with these new reporting requirements.

**For returns and statements filed and furnished in 2016 to report offers of coverage in 2015, the IRS will not impose penalties on reporting entities that can show they make good faith efforts to comply with the information reporting requirements.**

This relief is provided only for incorrect or incomplete information reported on the return or statement, including Social Security numbers, TINs or dates of birth. No relief is provided for reporting entities that do not make a good faith effort to comply with these regulations or that fail to timely file an information return or statement.

*Please note that the information contained in this document is designed to provide authoritative and accurate information, in regard to the subject matter covered. However, it is not provided as legal or tax advice and no representation is made as to the sufficiency for your specific company's needs. This document should be reviewed by your legal counsel or tax consultant before use.*