

WHAT YOU NEED TO KNOW



IRS Releases 2016 Forms and Instructions for 6055/6056 Reporting

Updated January 4, 2017

Background

Under the Patient Protection and Affordable Care Act (ACA), individuals are required to have health insurance while applicable large employers (ALEs) are required to offer health benefits to their full-time employees. In order for the Internal Revenue Service (IRS) to verify that (1) individuals have the required minimum essential coverage, (2) individuals who request premium tax credits are entitled to them, and (3) ALEs are meeting their shared responsibility (play or pay) obligations, employers with 50 or more full-time or full-time equivalent employees and insurers are required to report on the health coverage they offer.

Final instructions for both the [1094-B and 1095-B](#) and the [1094-C and 1095-C](#) were released in September 2016, as were the final forms for [1094-B](#), [1095-B](#), [1094-C](#), and [1095-C](#). In December 2016, the IRS updated its longstanding [Questions and Answers about Information Reporting by Employers on Form 1094-C and Form 1095-C](#).

When? Which Employers?

Reporting will be due early in 2017, based on coverage in 2016. All reporting will be for the calendar year, even for non-calendar year plans. The reporting requirements are in Sections 6055 and 6056 of the ACA. Draft instructions for both the 1094-B and 1095-B, and the 1094-C and 1095-C were released in August 2016. The final instructions are substantially similar to the draft instructions.

6055 Requirements: Forms 1094-B and 1095-B

IRS Form 1095-B is used to meet the Section 6055 reporting requirement. Section 6055 reporting relates to having coverage to meet the individual shared responsibility requirement. Form 1095-B is used by insurers, plan sponsors of self-funded multiemployer plans, and plan sponsors of self-funded plans that have fewer than 50 employees to report on coverage that was actually *in effect* for the employee, union member, retiree or COBRA participant, and their covered dependents, on a month-by-month basis. Filers use Form 1094-B as the transmittal to submit the 1095-B returns.

6056 Requirements: Forms 1094-C and 1095-C

IRS Form 1095-C is primarily used to meet the Section 6056 reporting requirement. The Section 6056 reporting requirement relates to the employer shared responsibility / play or pay requirement. Information from Form 1095-C is also used to determine whether an individual is eligible for a premium tax credit. Employers with 50 or more full-time or full-time equivalent employees complete much of Form 1095-C to report on coverage that was *offered* to the employee and eligible dependents. In addition, to save large employers that sponsor self-funded plans from having to complete two forms, a Part III has been included in Form 1095-C. Large employers with self-funded plans use that part of the form to report information about *actual* coverage that otherwise would be reported on Form 1095-B. Employers with 50 or more full-time or full-time equivalent employees with fully insured plans will skip section III, and their carrier will complete a separate B series form to report that information for them.

Form 1094-C is used in combination with Form 1095-C to determine employer shared responsibility penalties.

Employers with 50 or more full-time or full-time equivalent employees must provide Form 1095-C to virtually all employees who were full time (averaged 30 hours per week) during any month during the year, even if coverage was not offered to the employee or the employee declined coverage. (If the full-time employee never became eligible during the year, most likely because the employee is a variable-hours employee in an initial measurement period, the form does not need to be provided).

The major reporting requirements are:

	Fully Insured < 50 FTEs	Fully Insured 50+ FTEs	Self-Funded < 50 FTEs	Self-Funded 50+ FTEs
Forms to employee	1095-B	1095-B / 1095-C (Parts I and II only)	1095-B	1095-C (all Parts)
Filed by	Insurer	Insurer / Employer	Plan Sponsor (generally the employer)	Plan Sponsor (generally the employer)
Forms to IRS	1094-B	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)
Filed by	Insurer	Insurer / Employer	Plan Sponsor	Plan Sponsor

2016 Updates

The 2016 instructions for Forms 1094-C and 1095-C include some form revisions and code changes. The Qualifying Offer Method Transition Relief is not applicable for 2016. Clarification language was added to remind filers of the definition of “full-time employee” and to inform recipients that the form should not be submitted with their returns. New codes 1J and 1K were added to address conditional offers of spousal coverage.

For the 1094-B and 1095-B forms, there are a few form revisions. Clarification language was added to remind recipients that the form should not be submitted with their returns. Also, the form is updated to reflect the rule that a taxpayer identification number (TIN) may be entered.

1094-C and 1095-C Highlights

Who Must File

The instructions clarify that all ALEs (employers with 50 or more employees) must file one or more 1094-C forms (including the designated authoritative transmittal) and a 1095-C for each employee who was a full-time employee for any month of the year.

Extensions and Waivers

The instructions provide information on requesting extensions and waivers. Automatic 30-day extensions will be given to entities filing Form 8809, and no signature or explanation is needed. Form 8809 must be filed by the due date of returns in order to be granted the 30-day extension. Waivers – from the electronic filing requirement – may be requested with Form 8508; the instructions encourage filers to request waivers at least 45 days before the due date of the information returns, but the waiver request must be filed no later than the due date of the return.

Full-Time Employee Count

Employers must enter the number of full-time employees and the total employee count in Part III of Form 1094-C. Employers may determine the headcounts on the first day of each month, the last day of each month, the 12th of the month, the first day of the first payroll period that starts during each month, or the last day of the first payroll period that starts during each month (provided that for each month that last day falls within the calendar month in which the payroll period starts). The definitions section also provides that an employer may disregard counting an employee for any month the employee has TRICARE or Veterans Administration coverage.

Correcting Forms 1094-C and 1095-C

The instructions provide detailed information on correcting returns. Separate instructions are given for correcting authoritative 1094-C and 1095-C forms. Steps are given for a variety of mistakes, including incorrect full-time employee counts, premium amounts, and covered individual information.

Extensions to Furnish Statements to Employees

Generally, employers may request an extension of time to furnish statements to recipients by mailing a letter to the IRS with information, including the reason for the delay. If the request is granted, the maximum extension that will be given is 30 days.

For reporting in 2017 (regarding offers of coverage and coverage in 2016), an applicable large employer must furnish Form 1095-C to each full-time employee on or before March 2, 2017. This due date reflects a 30-day extension from the general due date (January 31 of the year immediately following the calendar year to which the information relates); the extension was provided by the IRS in [Notice 2016-70](#) on November 18, 2016.

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The extension applies automatically and does not require the submission of any request or other documentation to the IRS. Because of this automatic extension, the rules allowing the IRS to grant extensions of time of up to 30 days to furnish Form 1095-C will not apply to the extended due date.

Penalties

For returns required to be made and statements required to be furnished for 2016 tax year returns, the following penalties apply:

- The penalty for failure to file a correct information return is \$260 per return, with the total penalty for a calendar year not to exceed \$3,193,000.
- The penalty for failure to provide a correct payee statement is \$260 per statement, with the total penalty for a calendar year not to exceed \$3,193,000.

Special rules apply that increase the per-statement and total penalties if there is intentional disregard of the requirement to file the returns and furnish the required statements. Penalties may be waived if the failure was due to reasonable cause and not willful neglect.

98 Percent Offer Method

This method requires an employer to certify that it offered affordable health coverage providing minimum value to at least 98 percent of its employees for whom it is filing a Form 1095-C employee statement and offered minimum essential coverage to those employees' dependents. An individual in a limited non-assessment period does not count against the employer's 98 percent calculation.

Qualifying Offer Method

The instructions provide that an employer can use the qualifying offer code (1A) on Form 1095-C so long as the employee received a qualifying offer for all months in which the employee was full time (and not in a limited non-assessment period), but the employer may not furnish the alternative statement unless the employee received a qualifying offer for all 12 months in the calendar year.

On Form 1094-C, line 22, Certifications of Eligibility, the applicable large employer should check box A, Qualifying Offer Method. On Form 1095-C, line 14, the applicable large employer should enter code 1A, Qualifying Offer, for each employee receiving a Qualifying Offer for all 12 months of the year.

When an employee receives a qualifying offer, no entry is required in line 15, Employee Required Contribution, and no entry is required in line 16, Section 4980H Safe Harbor and Other Relief.

Form 1095-C must be filed with the IRS; however, as an alternative to furnishing the employee with a copy of Form 1095-C filed with the IRS, the employer may furnish a statement containing certain information and stating that, because the employee received a qualifying offer for all 12 months of the year, the employee is not eligible for the premium tax credit.

An employer that sponsors a self-insured health plan may not use this alternative for any employee who has enrolled in the coverage under that plan because the employer is required to report that coverage on Form 1095-C. In this case, the employer must furnish the employee with a copy of the Form 1095-C as filed with the IRS, which will include enrollment in coverage information (Part III) as well as offer of coverage information (Part II).

Plan Start Month Box

The form retains the “plan start month” box, which was optional for 2015 and remains optional for 2016. This box is intended to provide the IRS with information used to calculate an individual’s eligibility for premium tax credits, which is based on the employer plan’s affordability, calculated by plan year. The instructions indicate that it is anticipated that this box will be mandatory for the 2017 Form 1095-C.

Multiemployer Plan Relief

The 2016 instructions retain the prior year’s instructions for ALEs to enter code 1H on line 14 for any month in which an employer enters code 2E on line 16. Code 2E indicates that an employer is required to contribute to a multiemployer plan on behalf of the employee for that month, and is eligible for multiemployer interim relief. This is intended to assist with reporting challenges for multiemployer plans.

Reporting Offer of Coverage for the Month in Which an Employee is Hired

For the first month of employment, in Part II of Form 1095-C, the employer should report that the employee was not offered coverage for that month by entering code 1H, No offer of coverage, on line 14 (unless the employee was offered coverage and the offer of coverage extended to every day of that month).

For example, if a newly-hired employee starts employment on the 10th of a month, with the offer of coverage (if accepted) providing coverage also starting on the 10th of the month, the employer should report that the employee was not offered coverage for that first month.

If an employee’s first day of employment is a day other than the first day of the month, then the first month of employment is a limited non-assessment period and the applicable large employer will not be subject to a payment under the employer shared responsibility provisions for that employee’s first month of employment. In that case, the employer should enter code 2D, Employee in a section 4980H(b) Limited Non-Assessment Period, on line 16 for that month.

The rules are different for Part III of Form 1095-C. In Part III of Form 1095-C, an applicable large employer that sponsors a self-insured health plan should report an individual as having coverage under the plan for the month if the individual was covered for any day of the month. If the employee enrolls in the plan and obtains coverage for any day during the month of hire, the employee (and any family members who obtained coverage through the employee’s enrollment) should be reported as having coverage for that month in Part III of Form 1095-C.

Reporting Offer of Coverage for the Month in Which an Employee Terminates Employment

If an employee terminates employment with an employer on any day other than the last day of a month and the coverage or offer of coverage expires upon employment termination, the employer should report that the employee was not offered coverage for that final month of employment by entering code 1H, No offer of coverage, on line 14.

The rules are different for Part III of Form 1095-C. In Part III of Form 1095-C, an applicable large employer that sponsors a self-insured health plan should report an individual as having coverage under the plan for the month if the individual was covered for any day of the month. In this case, if an employee who terminates employment with an applicable large employer had coverage for any day during the month of termination, the employee (and any family members who had coverage through the employee’s enrollment) should be reported as having coverage for that month in Part III of Form 1095-C.

Also, if the coverage or offer of coverage would have continued if the employee had not terminated employment during the month, the employer will be treated as having offered coverage to that employee for purposes of the employer shared responsibility provisions for that employee's last month of employment. In that case, the employer should enter code 2B, Employee not a full-time employee, on line 16 for that month. In addition, the employer can treat the employee as having been offered coverage for the month for purposes of Form 1094-C, Part III, column (a).

COBRA Coverage

If COBRA is offered to a former employee upon termination, it is not reported as an offer of coverage. Employers should use code 1H (no offer of coverage) for any month in which the COBRA offer applies.

If the employer is required to complete Form 1095-C for the former employee (because, for example, the individual was a full-time employee for one or more months of the year before terminating employment), the employer should use code 1H, No offer of coverage, on line 14 for any month that the former employee was offered COBRA continuation coverage. For those same months, the employer should use code 2A, Employee not employed during the month, on line 16 for each month in which the individual is not an employee (regardless of whether the former employee enrolled in the COBRA continuation coverage).

An employer that provides COBRA continuation coverage through a self-insured health plan generally must report that coverage for any former employee or family member who enrolls in that COBRA continuation coverage in Part III of the Form 1095-C. Also, the employer may report the coverage on a Form 1095-B for any individual who was not an employee during the year and who separately elected the COBRA continuation coverage.

An offer of COBRA continuation coverage that is made to an active employee due to a reduction in hours is reported differently than an offer of COBRA continuation coverage to a former employee.

An employer making an offer of COBRA continuation coverage to an active employee who loses eligibility for non-COBRA coverage due to a reduction in hours (for instance, a change from full-time to part-time status resulting in loss of eligibility under the plan) should report the offer of COBRA continuation coverage as an offer of coverage in Part II of Form 1095-C.

In this case, the code entered on line 14 for the months in which an offer of COBRA continuation coverage is made should reflect only the individuals who received an offer of COBRA continuation coverage (which generally will be only the individuals enrolled in the non-COBRA coverage at the time of the reduction in hours) or the individuals who received an offer of other coverage at the same time the COBRA continuation coverage is offered.

This is because only the individuals who received an offer of COBRA continuation coverage (or of other coverage at the same time) are potentially ineligible for the premium tax credit for coverage through the Marketplace due to the offer of COBRA continuation coverage (or other coverage).

Note that, for purposes of the employer shared responsibility provisions, an applicable large employer will be treated as having made an offer to a full-time employee's dependents (not including spouse) for an entire plan year if the employer provided the employee an effective opportunity to enroll the employee's dependents at least once for the plan year, even if the employee declined to enroll the dependents in the coverage and, as a result, the dependents later did not receive an offer of COBRA coverage.

The IRS provides the following examples of the way employers should report offers of COBRA continuation coverage for active employees on Form 1095-C.

Example 1

ABC Corporation is an applicable large employer and its health plan has a calendar year plan year.

James was a full-time employee of ABC Corporation and received an offer of coverage under its health plan, providing minimum value, including an offer of minimum essential coverage for his spouse and dependents. James enrolled in self-only coverage from January 1, 2016, through October 31, 2016.

The employee required contribution for the lowest cost self-only coverage providing minimum value available under the plan was \$150 per month.

On November 1, 2016, James transferred to a part-time position and was no longer eligible for coverage under the terms of the ABC Corporation health plan. James received an offer of COBRA continuation coverage due to the transfer to the reduced-hours position, with an employee required contribution of \$250 per month for self-only coverage providing minimum value.

James elected to enroll in the COBRA continuation coverage for the months of November and December 2016.

ABC Corporation should complete Part II of Form 1095-C for James as follows:

January - October

Line 14 – Enter code 1E (Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse)

Line 15 – Enter \$150 as the employee required contribution

Line 16 – Enter code 2C (Employee enrolled in coverage offered)

November - December

Line 14 – Enter code 1B (Minimum essential coverage providing minimum value offered to employee only)

Line 15 – Enter \$250 as the employee required contribution

Line 16 – Enter code 2C (Employee enrolled in coverage offered)

Example 2

The same facts as Example 1, except James elects not to enroll in the COBRA continuation coverage. ABC Corporation should complete line 14 and line 15 in the same manner as in Example 1. However, the applicable code, if any, for line 16 for November and December is determined as it would be for any other active employee. Thus, for any month in which James is treated as a full-time employee under the look-back measurement method, the employer may not use code 2B, Employee

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not a full-time employee, on line 16. In that case, the employer may enter another code from Code Series 2, if applicable.

ABC Corporation should complete Part II of Form 1095-C for James as follows:

January - October

Line 14 – Enter code 1E (Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse)

Line 15 – Enter \$150 as the employee required contribution

Line 16 – Enter code 2C (Employee enrolled in coverage offered)

November - December

Line 14 – Enter code 1B (Minimum essential coverage providing minimum value offered to employee only)

Line 15 – Enter \$250 as the employee required contribution

Line 16 – Enter, if applicable, a code from Code Series 2 (Section 4980H Safe Harbor Codes and Other Relief for Employers)

For Examples 1 and 2, when ABC Corporation completes its Authoritative Transmittal, Part III – ALE Member Information – Monthly, Lines 23-35, ABC Corporation can treat James and his dependents as if they had an offer of coverage for the whole 2016 plan year, including November and December, when determining whether ABC Corporation offered minimum essential coverage to at least 95 percent of its full-time employees and their dependents.

Example 3

The same facts as Example 1, except from January 1, 2016, James enrolled in family coverage providing minimum value covering himself, his spouse, and his dependents. On November 1, 2016, when James transferred to a part-time position and lost eligibility for coverage under the terms of the plan, an offer of COBRA continuation coverage was made to James, his spouse, and his dependents. ABC Corporation should complete line 14 and line 15 in the same manner as in Example 1, except that for November and December, code 1E, Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse, should be entered on line 14.

ABC Corporation should complete Part II of Form 1095-C for James as follows:

January - October

Line 14 – Enter code 1E (Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse)

Line 15 – Enter \$150 as the employee required contribution

Line 16 – Enter code 2C (Employee enrolled in coverage offered)

November - December

Line 14 – Enter code 1E (Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse)

Line 15 – Enter \$250 as the employee required contribution

Line 16 – Enter code 2C (Employee enrolled in coverage offered)

In some circumstances (for example, if the employee is deceased or elects not to enroll in COBRA continuation coverage), a current or former employee's spouse and dependents may be offered COBRA continuation coverage and be entitled to make an independent election to enroll in COBRA continuation coverage.

An employer that sponsors a self-insured health plan may choose to report coverage of each non-employee spouse and dependent who separately elects COBRA continuation coverage on a Form 1095-B or on Form 1095-C.

Example

Keri was a full-time employee of ABC Corporation, which is an applicable large employer. Effective for the plan year beginning January 1, 2016, Keri elected to receive self-and-spouse coverage under the self-insured ABC Corporation health plan for herself and her spouse, Gerald.

On May 15, 2016, Keri and Gerald divorce and Gerald loses eligibility for coverage under the plan. ABC Corporation makes an offer of COBRA continuation coverage to Gerald, who elects to enroll in the COBRA continuation coverage and remains enrolled from May 15, 2016, through December 31, 2016.

ABC Corporation should report Keri's enrollment in Part III of Form 1095-C by reporting that Keri was enrolled in minimum essential coverage in January 2016 through May 2016, and that Gerald had coverage (due to Keri's enrollment in coverage providing coverage to a spouse) for the months January through May 2016.

For the period June through December 2016, Keri and Gerald should receive separate forms reporting them as enrolled in minimum essential coverage under ABC Corporation's self-insured health plan. Keri's enrollment information will be included on her Form 1095-C; ABC Corporation may report for Gerald on a separate Form 1095-C or 1095-B.

Post-Employment (Non-COBRA) Coverage

An offer of post-employment coverage that is made to a former employee upon termination of employment (such as at retirement) is not reported as an offer of coverage in Part II of Form 1095-C.

If an employer is otherwise required to complete Form 1095-C, Part II, for the former employee (because, for example, the individual was a full-time employee for one or more months of the year before terminating employment), the employer should use code 1H, No offer of coverage, on line 14 for any month that the former employee was offered post-employment coverage. For those same months, the employer should use code 2A, Employee not employed during the month, on line 16 for each month in which the individual is not an employee (regardless of whether the former employee enrolled in the post-employment coverage).

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An employer that provides post-employment coverage through a self-insured health plan must report that coverage for any former employee or family member who enrolls in that coverage in Part III of Form 1095-C for the calendar year in which the employee terminated employment.

For subsequent calendar years in which an individual who was not an employee for any month enrolls in post-employment coverage provided through the self-insured health plan, the employer may report that coverage on Form 1095-B or Form 1095-C.

Line 15 Calculations

The instructions clarify that the employee required contribution is the employee's share of the monthly cost for the lowest-cost self-only minimum essential coverage providing minimum value that is offered to the employee by the employer. To determine the employee's share of the monthly cost, the employer may divide the total cost to the employee for the plan year by the number of months in the plan year.

Break in Service

The instructions note that in certain circumstances an employee may have a break in service (which may be due to termination) during which he or she does not earn hours of service, but upon beginning service, is treated as a continuing employee rather than a new hire. The instructions clarify that the individual should only be treated as an employee during the break in service for reporting purposes if the individual remained an employee (was not terminated). An employee on unpaid leave would be treated as an employee for reporting purposes.

HRA Reporting

The 1095-C instructions for Part III (covered individuals) provide that an ALE with self-insured medical and a health reimbursement arrangement (HRA) is only required to report the coverage of an individual under one of the two plans if the individual is enrolled in both. An ALE with a fully insured major medical plan and an HRA is not required to complete Part III in relation to the HRA coverage if the employee is only eligible for the HRA because of enrollment in the major medical plan. However, if an employee has an HRA and is not enrolled in the major medical plan of the ALE, that HRA coverage must be reported under Part III.

Conditional Offer of Spousal Coverage

The instructions provide new codes 1J and 1K for line 14. The new codes are for employers that make conditional spousal offers of coverage, such as only offering coverage to a spouse if the spouse doesn't have access to the spouse's own employer coverage. This is intended to help preserve the subsidy eligibility for a spouse who can't enroll on the spouse's plan but the spouse's own employer coverage isn't minimum essential coverage and doesn't meet the affordability and minimum value standards.

1094-B and 1095-B Highlights

Who Must File

Every employer that provides minimum essential coverage to an individual during a calendar year must submit a Form 1094-B (transmittal) and Forms 1095-B (returns). Employers that are subject to employer

shared responsibility provisions (or employers with 50 or more full-time or full-time equivalent employees) will generally report information about coverage on Form 1095-C instead of Form 1095-B. Applicable large employers (ALEs) may use Form 1095-B to report coverage of individuals who are not full-time employees. Small employers that are not subject to the employer shared responsibility will use Forms 1094-B and 1095-B to report on the coverage that they provide.

Correcting Forms 1094-B and 1095-B

The instructions provide detailed information on correcting returns. Steps are given for a variety of mistakes including incorrect names, Social Security numbers, origin of policy information, and covered individual information.

Coverage in More than One Type of Minimum Essential Coverage

Individuals who are covered by more than one type of minimum essential coverage (MEC) are only required to have reporting on one of the types if one of the following exceptions applies:

- If an individual is covered by more than one type of MEC provided by the same provider, the provider is required to report only one of the types of coverage.
- A provider of MEC generally is not required to report coverage for which an individual is eligible only if the individual is covered by other MEC for which reporting is required. (For employer-sponsored coverage, this exception applies only if both types of coverage are under group health plans of the same employer.)

Under the first exception, if an employer offers a self-insured major medical plan and an HRA, the employer is the provider of both types of coverage and is only required to report the coverage of one of the arrangements. The second exception applies in the following situations.

- An insurance company offering a Medicare or TRICARE supplement for which only individuals enrolled in Medicare or TRICARE are eligible is not required to report coverage under the Medicare or TRICARE supplement.
- A state Medicaid agency is not required to report Medicaid coverage for which only individuals enrolled in other MEC (such as employer-sponsored coverage or a qualified health plan) are eligible.
- An employer with an insured major medical plan and HRA coverage for which an individual is eligible because the individual enrolls in the insured major medical plan is not required to report the coverage under the HRA for an individual covered by both arrangements.

Practically speaking, an employer with a fully insured medical plan would only have to report on a self-funded HRA if the HRA is not integrated. An individual covered by an HRA from one employer and a non-HRA group health plan sponsored by another employer (for example, coverage from their spouse's employer) would receive reports on both the HRA and the other group health plan.

Reporting

Filers must provide a copy of Form 1095-B to individuals by January 31, 2017. The employer's or carrier's "roll-up" and other reporting using an IRS Form 1094 will be due on February 28, 2017, if filing with paper and by March 31, 2017, if filing electronically. Groups that file 250 or more 1095 forms for 2016 are required to file Form 1094 and copies of Form 1095 electronically.

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An employer that is concerned about maintaining and transmitting Social Security numbers may use truncated numbers (for example, XXX-XX-1234) on the Form 1095-B it provides to the employee; the numbers may not be truncated on returns filed with the IRS. Substitute forms will be permitted. The filer's Employer Identification Number (EIN) may not be truncated on the statement provided to the employee.

An employer must make three attempts to obtain the Social Security number of the individual. One attempt must be made when the person first becomes covered, with additional attempts later in that calendar year and the following calendar year. If a Social Security number is not available, the individual's birth date must be entered.

An employer may file only one Form 1095-C per employee, which means, for example, that if different divisions have different benefits, and an employee moves between divisions during the year, the employer will need to consolidate data onto one 1095-C form. However, each employer must file its own Form 1095-C, so if an employee moves from one employer to another within a controlled group, each employer must prepare a Form 1095-C. If the employee moves from one employer within the controlled group to another during the month, the employer for whom the employee worked the greatest number of hours during the month should report on that employee's offer of coverage and any coverage for that month.

An employer's reporting obligation, including the forms it or its insurer will need to file, varies by its size, its funding method (self-funded or fully insured), and whether it is part of a controlled group. The following section describes the requirements that apply to the most common situations. However, the forms are complicated and employers should review the IRS instructions before completing the forms or designing systems.

For purposes of these forms, an employee is considered full time if the employee averaged 30 or more hours per week during a calendar month. If a person was a full-time employee for one or more months during the reporting year, Form 1095-C Part II must report for each month during the year, even if the person was not employed during the month. A series of codes, described in the "Needed Information" section of this ACA Advisor, will be used to indicate the person's status for a particular month.

"Minimum essential" coverage is basic medical coverage. Coverage does not need to include the 10 essential health benefits to be considered minimum essential coverage. "Minimum value" coverage is medical coverage that has an actuarial value of at least 60 percent.

Sample Situations

1. Employer with fewer than 50 full-time and full-time equivalent employees in a controlled group during the prior calendar year and no coverage offered
 - No reporting is required.
2. Employer with 50 or more full-time and full-time equivalent employees in a controlled group during the prior calendar year and no coverage offered
 - The employer must provide Form 1095-C (Parts I and II) to each full-time employee.
 - The employer must provide copies of each Form 1095-C and a completed Form 1094-C to the IRS.

3. Employer with fewer than 50 full-time and full-time equivalent employees in a controlled group during the prior calendar year and fully insured coverage offered
 - The insurer must provide Form 1095-B to each employee who had coverage (whether the employee was full time or part time). The form will indicate each month for which the employee, a spouse or dependent children had coverage for at least one day. The insurer will also provide Form 1094-B and copies of all Form 1095-Bs to the IRS.
 - The employer has no Form 1095-C reporting duties.
4. Employer with fewer than 50 full-time and full-time equivalent employees in a controlled group during the prior calendar year and self-funded coverage offered
 - The employer must provide Form 1095-B to each employee who had coverage (whether the employee was full time or part time) and all individuals who participated in the plan during the calendar year (retirees, COBRA participants, etc.). The form will indicate each month for which the individual, a spouse, or dependent children had coverage for at least one day. The employer will also provide Form 1094-B and copies of all Form 1095-Bs to the IRS.
 - The employer has no Form 1095-C reporting duties.
5. Employer with 50 or more full-time and full-time equivalent employees in a controlled group during the prior calendar year and fully insured coverage offered
 - The insurer must provide Form 1095-B to each employee who had coverage (whether the employee was full time or part time). The form will indicate each month for which the employee, a spouse, or dependent children had coverage for at least one day. The insurer will also provide Form 1094-B and copies of all Form 1095-Bs to the IRS.
 - In addition, the employer must provide Form 1095-C with Parts I and II completed to each employee who was employed full time for at least one month during the year unless the full-time employee was ineligible for coverage for the entire year. (This will occur infrequently, but could happen with a new variable-hours employee in an initial measurement period.) Form 1095-C is required even if the employee declined coverage. The form will need to be provided to an individual who retired or terminated during the year.
 - As a result, employees will receive forms from both the employer and the insurer.
 - The employer will also provide Form 1094-C to the IRS (see the “Needed Information” section of this ACA Advisor for details) along with copies of all Form 1095-Cs.
6. Employer with 50 or more full-time and full-time equivalent employees in a controlled group during the prior calendar year and self-funded coverage offered
 - The employer must provide Form 1095-C with Parts I, II and III completed to each employee who had coverage (whether the employee was full time or part time; special coding is needed in Part II for part-time employees who had coverage). This includes an individual who retired or terminated during the year. Part III of the form will indicate each month for which the employee, a spouse, or dependent children had coverage for at least one day.
 - The employer must provide Form 1095-C with Parts I and II completed to each employee who was employed full time for at least one month during the year and who declined coverage.
 - If the plan covers non-employees (such as directors or individuals who were retired for the entire reporting year) the employer may provide the non-employees with either Form 1095-B or Form 1095-C with Parts I, II and III completed; special coding is needed in Part II if Form 1095-C is used.
 - No form is needed for an employee who did not work full time for any month during the year and who either was not offered coverage or who declined coverage.

- The employer will also provide Form 1094-C to the IRS (see the “Needed Information” section of this ACA Advisor for details) along with copies of all Form 1095-Cs.

7. Multiemployer plans of any size

- If the multiemployer plan is self-funded, regardless of its size, the plan sponsor (such as the trustees or committee) must provide Form 1095-B to each union member who had coverage (whether the union member was full time or part time). The form will indicate each month for which the union member, a spouse, or dependent children had coverage for at least one day. The plan sponsor will also provide Form 1094-B and copies of all Form 1095-Bs to the IRS.
- If the multiemployer plan is fully insured, the insurer must provide Form 1095-B to each union member who had coverage (whether the union member was full time or part time). The form will indicate each month for which the union member, a spouse, or dependent children had coverage for at least one day. The insurer will also provide Form 1094-B and copies of all Form 1095-Bs to the IRS.
- If the employer had 50 or more full-time and full-time equivalent employees in its controlled group during the prior calendar year, whether the employees were union, non-union, or both, it must provide the union employee with Form 1095-C with Parts I and II completed. The employer will also provide Form 1094-C and copies of all Form 1095-Cs to the IRS.
- An employer is treated as offering health coverage to an employee if the employer is required by a collective bargaining agreement or related agreement to make a contribution for that employee to a multiemployer plan that offers eligible individuals coverage that is affordable and provides minimum value to the individual and his or her dependents. In that instance an employer should enter code 1H on line 14 of the 1095-C and code 2E on line 16, without regard to whether the employee was eligible to enroll in coverage under the multiemployer plan.

8. Employers in controlled groups

- An employer that is a member of a controlled group or affiliated service group must provide specific additional reporting on Form 1094-C, section IV.

Needed Information

1. **Form 1095-B** – Used by insurers, self-funded plans if fewer than 50 employees are in the controlled group, and self-funded multiemployer plans of all sizes.

Form 1095-B will be used to report that individuals had minimum essential coverage in effect and will include:

- The name, address, and Social Security number of the "responsible individual" (typically this will be the employee, union member, or primary insured; date of birth may be used if a Social Security number is not available).
- The name and Social Security number (or date of birth if a Social Security number is not available) of each covered spouse and dependent.
- The calendar months each employee, spouse, or dependent children were covered for at least one day (if the person was covered for the whole year, this may be reported by year rather than month-by-month).
- The origin of the policy (whether coverage is through the Small Business Health Options Program (SHOP) Marketplace, an employer, the government, individual insurance, a multiemployer plan, or miscellaneous minimum essential coverage).

- The name, address, and Employer Identification Number (EIN) of the employer if an employer sponsors the plan.
- The SHOP Marketplace unique identifier if coverage is provided through the SHOP.

Each "responsible individual" will receive Form 1095-B describing the family unit's coverage.

In addition, the insurer, employer or plan sponsor must file Form 1094-B transmittal form with a copy of each completed Form 1095-B. To complete Form 1094-B this information is needed:

- The insurer's, employer's, or plan sponsor's complete name, address, and EIN, and the name and phone number of a contact person (who does not need to be an employee).
- The total number of 1095-B forms submitted with that particular transmittal form.

2. **Form 1095-C, Parts I and II** – Used by all large employers (those that averaged 50 or more full-time or full-time equivalent employees in their controlled group during the prior calendar year), regardless of whether the plan is fully insured or self-funded.

To help determine whether the large employer offered minimum essential coverage, or coverage that is affordable and provides minimum value during the year, the form requires the employer to indicate whether coverage was offered each month to the employee and to various combinations of family members (such as employee and spouse, employee and dependent children), the robustness of the coverage (minimum essential or minimum value) and whether the coverage was affordable under one of the affordability safe harbors.

Part I (Identifying Information):

- The name, address, and Social Security number of the employee.
- The name, address, federal EIN and a contact telephone number for the employer (who does not have to be an employee). Each employer must complete the form in its own name, even if it participates in a plan sponsored by another entity.

Part II (Offer of Coverage):

- Information on the coverage offered to the employee, using a series of codes labeled Code Series 1. If coverage did not vary during the calendar year, the employer may use one code to report all 12 months, or it may report each month separately. If coverage varied during the year, the relevant code is needed for each month. The reporting will be made on a calendar year basis, even if the employer has a non-calendar year plan. All months must be completed even if the employee only worked for the employer for part of the year. In situations in which multiple codes may apply, the IRS Instructions explain which code to use.
- The Series 1 offer codes are:
 - Code 1A – Offered minimum essential coverage providing minimum value to the full-time employee with an employee contribution for self-only coverage less than or equal to 9.66 percent of the federal poverty level (FPL) for the 48 contiguous states and offered at least minimum essential coverage to the spouse and dependent children (a "qualifying offer"). If this code is used, line 15 must be left blank.
 - Note: If an employer meets all the requirements of 1A but uses an affordability safe harbor rather than the FPL, it cannot use 1A.

- Note: If an employer offered minimum value coverage to a *part-time* employee with an employee contribution for self-only coverage less than or equal to 9.66 percent of the FPL for the 48 contiguous states and offered at least minimum essential coverage to the spouse and dependent children, it cannot use 1A.
- Code 1B – Offered minimum essential coverage providing minimum value to the employee only.
- Code 1C – Offered minimum essential coverage providing minimum value to the employee and at least minimum essential coverage to the employee’s dependent children (but not to the spouse).
- Code 1D – Offered minimum essential coverage providing minimum value to the employee and at least minimum essential coverage to the spouse (but not to the employee’s dependent children). Do not use 1D if the coverage for the spouse was offered conditionally. Instead use code 1J.
- Code 1E – Offered minimum essential coverage providing minimum value to the employee and at least minimum essential coverage to both the dependent children and the spouse. Do not use code 1E if the coverage for the spouse was offered conditionally. Instead use code 1K.
- Code 1F – Offered coverage that is minimum essential coverage but does not provide minimum value to the employee, or to the employee and the employee’s spouse or dependents, or to the employee the employee’s spouse and dependents.
- Code 1G – Offered coverage to an employee who was not a full-time employee and the employee enrolled in coverage that is self-funded.
 - Note: Code 1G applies for the entire year or not at all. If code 1G applies, an employer must enter code 1G on line 14 in the “All 12 Months” column or in each separate monthly box (for all 12 months).
- Code 1H – No medical coverage was offered at all, or the coverage that was offered is not minimum essential coverage.
- Code 1I – Reserved.
- Code 1J – Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage conditionally offered to spouse; minimum essential coverage not offered to dependent children. An employer that excludes or imposes a surcharge on spouses who have coverage available through the spouse’s employer may use this code.
- Code 1K – Minimum essential coverage providing minimum value offered to employee; at least minimum essential coverage offered to dependents; and at least minimum essential coverage conditionally offered to spouse.
 - Note: Using new codes 1J and 1K, an employer may report a conditional offer to a spouse as an offer of coverage, regardless of whether the spouse meets the reasonable, objective condition. A conditional offer generally would affect a spouse’s eligibility for the premium tax credit only if all of the offer’s conditions are satisfied (that is, the spouse was actually offered the coverage and eligible for it). To help employees (and spouses) who have received a conditional offer determine their eligibility for the premium tax credit, the employer should be prepared to provide, upon request, a list of all conditions that apply to the spousal offer of coverage.
- If the offered coverage meets minimum value (that is, codes 1B, 1C, 1D, 1E, 1J, or 1K apply), the employee share (to the nearest cent) of the lowest-cost monthly premium for self-only minimum value coverage for which the employee is eligible for each month (not the premium for the

coverage the employee has elected) will be entered on line 15. If codes 1B, 1C, 1D, 1E, 1J, or 1K apply, but the employee share is zero, enter "0.00" (do not leave line 15 blank).

- Employee status codes, labeled Code Series 2, will be entered in line 16 if applicable. In some cases the code will be used by the IRS to determine whether a penalty is owed, which means it is generally desirable to enter one of these codes. For example, if a full-time employee declined coverage, the affordability code that applies to the employee's class of employees should be entered. In situations in which more than one code applies, the instructions explain which code to use.
 - The Series 2 status codes are:
 - Code 2A – Employee was not employed at all during the month.
 - Code 2B – Employee was employed but not a full-time employee. This code also is used for the last month of an employee's employment if coverage ended prior to the last day of the month.
 - Code 2C – Employee was enrolled in the coverage offered. This code should be used if the employee enrolled in the employer-sponsored coverage, even if other codes apply.
 - Code 2D – Employee was in a "limited non-assessment period" (for example, a new full-time employee was within the first three full calendar months of employment).
 - Code 2E – Multiemployer interim rule relief applies (essentially, the employer is credited with coverage offered under a multiemployer plan if the employer is obligated to contribute for the employee's union plan coverage). This code should be used if the employee is eligible for affordable, minimum value coverage through a multiemployer plan to which the employer contributes, even if other codes apply. This code should be used in conjunction with code 1H on line 14.
 - Code 2F – Coverage is affordable using the W-2 safe harbor (the cost of single coverage for the least expensive option that provides minimum value did not exceed 9.66 percent of the employee's Form W-2, Box 1 income for the year that is being reported; if this method is used it must be used for the entire calendar year).
 - Code 2G – Coverage is affordable using the federal poverty line safe harbor (the cost of single coverage for the least expensive option that provides minimum value did not exceed 9.66 percent of the FPL for the 48 contiguous states).
 - Code 2H – Coverage is affordable using the rate of pay safe harbor (generally, the cost of single coverage for the least expensive option that provides minimum value did not exceed 9.66 percent of the employee's rate of pay at the beginning of the coverage year that is being reported).
 - Note: An affordability safe harbor code should not be entered on line 16 for any month that the employer did not offer minimum essential coverage to at least 95 percent of its full-time employees and their dependents (that is, any month for which the employer checked the "No" box on Form 1094-C, Part III, column (a)).
 - Code 2I – Reserved.
3. **Form 1095-C, Part III** – Used by employers with 50 or more employees in their controlled group that sponsor a self-funded plan.

To complete Part III, the employer will need:

- The name and Social Security number (or date of birth if a Social Security number is not available) of each covered person (that is, the employee and any covered spouse or dependent children).

- The calendar months each person was covered for at least one day (if the person was covered for the whole year, this may be reported annually rather than month-by-month).

If a full-time employee declined the offered self-funded coverage, Part III will be left blank for that employee, but Parts I and II still must be completed. If an employee who works less than full time was covered under the self-funded plan, Part III should be completed for that employee (and part of Part II will also need to be completed, using Code 1G to indicate the person was not a full-time employee).

If employees are married and one is covered as a dependent, Part III of Form 1095-C should only be completed for the employee who is the primary insured, with the enrollment information for the spouse and any children listed on that employee's form.

4. **Form 1094-C, Parts I, II and III** – Used by all employers that issue Form 1095-C.

To complete the Form 1094-C this information is needed:

- The employer's name, address, and EIN, and the name and phone number of a contact person (who does not need to be an employee).
- The total number of 1095-C forms submitted with that particular transmittal form. An employer may file more than one Form 1094-C if that simplifies reporting. However, one of the forms must then be designated as the "authoritative transmittal."

Note: Government employers that provide benefits through a larger entity may do some reporting through a "designated government entity." (See the "Designated Government Entity" section below for details). Other employers should skip this section of the form.

One Form 1094-C must be designated as the "authoritative transmittal," even if the employer only submits one Form 1094-C. The "authoritative transmittal" needs this additional information:

- The total number of 1095-C forms submitted by the employer.
- An indication of whether the employer is part of an ALE Aggregated Group (that is, a controlled or affiliated service group) with 50 or more full-time or full-time equivalent employees.
- Under the "Certifications of Eligibility" section, any exemption claimed from reporting or penalties because of its size, 2015 transition rules, or offering coverage to a very high percentage of individuals (see the "Transition Options" section, below, for details).
- On a month-by-month basis (or for the full year if nothing changes):
 - Whether minimum essential coverage was offered to at least 95 percent of full-time employees and dependents (excluding those in a waiting period).
 - The total number of full-time employees of that employer for the calendar month, excluding newly-hired full-time employees in a waiting period and variable-hours or seasonal employees in an initial measurement period. An employer that offers affordable minimum value coverage to 98 percent of its full-time employees and minimum essential coverage to their spouses and dependent children does not need to report the employee count and marks the "98% Offer Method" box under the "Certifications of Eligibility" section.
 - The total employee count, including part-time employees and employees who are not yet eligible for coverage, for the calendar month (the count may be made as of the first day of the month, the last day of the month, the 12th day of each month, the first day of the first pay period of the month or – if the pay period will always end within the calendar month – the last day of the first payroll period of the month, but a consistent date must be used).

- Whether the employer is part of a controlled or affiliated service group for a calendar month, or the full year.
- Whether the employer qualifies for transition relief for 2016 either because it had 50 to 99 employees in 2015 and met the maintenance of coverage requirements (code A is used), or it had 100 or more full-time and full-time equivalent employees in 2015 and therefore may use the "free 80 employees" against a penalty that may be due for failing to offer coverage to enough employees (code B is used). This reporting supplements the election of "Section 4980H Transitional Relief" under the "Certifications of Eligibility" section of the form. This transition relief is available in 2016 only for employers with plans with a non-calendar plan year or for ALE members of an aggregated ALE group with at least one plan with a non-calendar plan year. For such an employer or ALE member, the relief applies only to the calendar months in 2016 that fall within the 2015 plan year.

5. **Form 1094-C, Part IV** – Used by employers that were part of a controlled group.

To complete Part IV of Form 1094-C, the employer that is in a controlled or affiliated service group must enter the name and EIN of all other employers that were part of the group during all or part of the calendar year. If there are more than 30 employers in the group, only the 30 largest will be reported. The other employers must be listed in descending order with the employer with the largest average number of full-time employees listed first.

Transition Options

Employers that offer particularly generous coverage may use alternative, simplified reporting instead of the "general" reporting explained above. Unfortunately, none of these available methods reduce reporting by very much. The employer may use different alternative reporting methods for different groups of employees.

1. **Qualifying Offer Method.** If the employer makes a "qualifying offer" to one or more full-time employees, it can provide a code instead of the cost of coverage information on line 15 of Form 1095-C. In addition, if qualifying offer coverage is offered for the entire year and the employer offers fully insured (not self-funded) coverage, the employer may provide a notice to the employee instead of the completed Form 1095-C. The streamlined reporting must include:

- The employer's name, address and EIN.
- A contact name and phone number at which the employee may receive information about the offer of coverage and the information on the Form 1095-C filed with the IRS for that employee.
- A statement indicating that, for all 12 months of the calendar year, the employee and his or her spouse and dependents, if any, received a "qualifying offer" and, therefore, are not eligible for a premium tax credit.
- Information directing the employee to see Publication 974, Premium Tax Credit (PTC), for more information on eligibility for the premium tax credit.

A "qualifying offer" is an offer that meets all of these requirements:

- It is offered to the employee and to any spouse and dependent children.
- It provides minimum value to the employee and at least minimum essential coverage to the spouse and children.
- It has an employee contribution for single coverage that is less than 9.66 percent of the FPL in the 48 contiguous states (2016 FPL for one person is \$11,880).

However, the employer still must provide a copy of Form 1095-C to the IRS. In this case, an employer might find that giving a notice to the employee (versus providing a copy of Form 1095-C) to be useful if the employer believes the notice to the employee will generate fewer employee questions than the completed Form 1095-C, or it would have difficulty providing the lowest cost premium information.

Note: If the employer is eligible to use the Qualifying Offer Method, it may report on Form 1095-C by entering the qualifying offer code 1A on Form 1095-C, line 14, for any month for which it made a qualifying offer to an employee, even if the employee did not receive a qualifying offer for all 12 calendar months. However, if an employee receives a qualifying offer for less than all 12 months, the employer must furnish a copy of Form 1095-C to the employee (rather than using the employee notice alternative method of furnishing Form 1095-C).

2. **Section 4980H Transitional Relief for 2015 Plan Years.** Several forms of transition relief under section 4980H were available to ALE members for 2015. Only certain of these forms of transition relief continue to apply in 2016, and they apply only for certain ALE members and only for certain calendar months in 2016.

For the 2016 calendar year, the transition relief described below applies only if an ALE member (or any other member of the ALE member's aggregated ALE group, if applicable) offers coverage under a health plan with a plan year beginning on a date other than January 1 (a non-calendar plan year), and only for calendar months in 2016 that fall within that 2015 plan year.

To certify that an employer is eligible for the transition relief for ALEs with fewer than 100 employees (50-99 transition relief), the employer must meet the following conditions:

- The employer is an ALE or is part of an Aggregated ALE Group that had 50 to 99 full-time employees, including full-time equivalent employees, on business days in 2014.
- During the period of February 9, 2014, through December 31, 2014, the ALE or the Aggregated ALE Group of which the employer is a member did not reduce the size of its workforce or reduce the overall hours of service of its employees in order to qualify for the transition relief.
- During the period of February 9, 2014, through the last day of the 2015 plan year, the ALE or Aggregated ALE Group of which the employer is a member does not eliminate or materially reduce the health coverage, if any, it offered as of February 9, 2014.

An employer is eligible for transition relief for calculating assessable payments for employers with 100 or more full-time employees (100 or more transition relief) if the employer has at least one plan with a non-calendar plan year. For the calendar months in 2016 that fall within the 2015 plan year, the assessable payment under Section 4980H(a) is calculated by reducing the employer's number of full-time employees by the allocable share of 80 (rather than 30).

For an employer with at least one plan with a non-calendar plan year, for the calendar months in 2016 that fall within the 2015 plan year, an employer that offers health coverage to at least 70 percent of its full-time employees (and their dependents) may, on Form 1094-C, lines 23 - 35, column (a), enter an "X" in the "Yes" checkbox for the month(s) during which it met that 70-percent threshold, as applicable. If the employer offers coverage under more than one health plan with different plan years, the transition relief applies through the last day of the latest of those plan years.

For purposes of section 4980H only, an employer may treat an offer of health coverage to a full-time employee but not the employee's dependents under a non-calendar year plan as an offer of health

coverage to the full-time employee and the employee's dependents for the calendar months in 2016 that fall within the 2015 plan year, if:

- The employer took steps during the 2015 plan year to extend coverage under the plan to dependents not offered coverage during the 2013 or 2014 plan years, or both; and
- The employee was not offered dependent health coverage during the 2013 or 2014 plan year.

An employer using this transition relief for any month in 2016 is not eligible to report using the Qualifying Offer Method for 2016. This relief does not apply for purposes of reporting offers of coverage to dependents on Form 1095-C.

3. **98% Offer Method.** If the employer offers affordable, minimum value coverage to at least 98 percent of its total employees (regardless of whether they are full time or part time) it does not need to report whether an employee is full time and it does not need to provide a count of its full-time employees. However, it will still need to provide Form 1095-C to each of its employees, which includes all of the other information required, and if an employee requests a premium tax credit, it will need to respond to an IRS inquiry about the employee's work and coverage status. Employers that anticipate difficulties reporting full-time employees (excluding those in waiting periods) may find this option helpful.

Designated Government Entity

Governmental units may file on their own or they may designate another person or entity that is part of, or related to, their governmental unit to report on their behalf. A separate Form 1094-C must still be filed for each separate unit. Government units that designate another to report for some, but not all, of their employees need to coordinate the "authoritative transmittal" with the other entity. The designated person must agree in writing to assume the filing responsibility.

Published 10/7/2016

Updated 1/4/2017

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