

Employer Reporting – 2016 FINAL Forms & Instructions

Issue Date: October 2016

The IRS has released the 2016 final forms and instructions for the ACA employer reporting requirement. The final forms are almost identical to the draft forms released in August, with only minor clarifying language in the instructions. While final forms and instructions have been released for both the “B” and the “C” forms, this summary focuses primarily on the updates to the “C” forms required to be used by applicable large employers.

Background

Under §6056, all applicable large employers (ALEs) – those averaging 50 or more full-time equivalents (FTEs) in the previous calendar year – must report to the IRS information about the healthcare coverage offered to full-time employees using Forms 1094-C and 1095-C.

Under §6055, all employers offering a self-funded group health plan considered to be minimum essential coverage (MEC) must report to the IRS information about the individuals actually covered under the plan. If an ALE offers a self-funded group health plan, all information required will generally be reported using Forms 1094-C and 1095-C. If a small employer (fewer than 50 FTEs) offers a self-funded group health plan, coverage information will be reported using Forms 1094-B and 1095-B.

Changes to Form 1094-C are minimal from the 2015 Forms. The most notable changes include:

- **Line 22** is “Reserved,” as it pertained to the “Qualifying Offer Method Transition Relief,” which is not applicable to 2016 coverage.
- **Part III, column (b)** includes a new distinction, “Section 4980H” before “Full-Time Employee Count for ALE Member.” This is intended to remind filers that only the section 4980H definition of “full-time employee” should be used in this column (no other definition can be used).

Changes to Form 1095-C are also minimal from the 2015 Forms, but include these more prominent updates:

- **New language below the form title** states “Do not attach to your tax return. Keep for your records.” This is intended to help prevent individuals from submitting the form with their tax return.
- **Line 15** has a revised header, “Employee Required Contribution (see instructions).”
- **Lines 14 and 16** have certain codes “Reserved,” as they no longer apply to 2016 coverage, and new codes (1J and 1K) have been added to Line 14.

- **Transition relief** available to employers for 2015 under sections 4980H and 6056 has limited applicability in 2016. References to transition relief that applied only in 2015 have been removed. Descriptions of the remaining forms of transition relief have been amended to clarify for which months in 2016 the transition relief applies (description and when it applies is available in Section 4980H Transition Relief for 2015 Plan Years).

The 2016 IRS Forms 1094-B and 1095-B have similar changes for reporting 2016 coverage in 2017.

Clarification of Existing Requirements

TIN (SSN) Solicitation Process for Self-Funded Plans

Guidance in regard to collecting/soliciting TINs (SSNs) for purposes of §6055 coverage reporting was provided by the IRS in August, and a reference to the proposed rules was added in the final reporting instructions. To show “reasonable cause” and thereby avoid potential penalties for not providing a TIN, or for providing an incorrect TIN, the employer is required to follow a specific TIN solicitation process for each individual enrolled under a self-funded plan offered by the employer. The proposed rules are available at https://www.irs.gov/irb/2016-33_IRB/ar10.html.

In the case of an *incorrect TIN*, the employer is required to make three reasonable attempts to correct the information using the following steps:

1. Make an initial solicitation at the individual's first enrollment (i.e. application for coverage submitted);
2. If the first solicitation is unsuccessful, make a second solicitation by December 31 of the year in which the relationship with the taxpayer begins (January 31 of the following year if the relationship begins in December); and
3. If the second solicitation is unsuccessful, make a third solicitation by December 31 of the following year.

In the case of a *missing TIN*, the employer is required to make three reasonable attempts to obtain the missing information using the following steps:

1. Make an initial solicitation at the individual's first enrollment (i.e. application for coverage submitted) or, if the individual is already enrolled on September 17, 2015, the next open enrollment season;
2. If the first solicitation is unsuccessful, make a second solicitation at a reasonable time thereafter (i.e. within 75 days); and
3. If the second solicitation is unsuccessful, make a third solicitation by December 31 of the year following the initial solicitation.

Enrollment in Minimum Essential Coverage (MEC)

On Form 1095-C, the employer is instructed to use code 2C on line 16 for any month in which the employee enrolls in the coverage offered. This is generally true even if another of the code 2 series might apply for the month (e.g. code 2F if the offer meets the Form W-2 safe harbor requirements). However, the final instructions clarify that code 2C on line 16 is appropriate only if the coverage offered is considered minimum essential coverage (MEC), although most employer-sponsored group health plans will meet the definition of MEC.

While every effort has been taken in compiling this information to ensure that its contents are totally accurate, neither the publisher nor the author can accept liability for any inaccuracies or changed circumstances of any information herein or for the consequences of any reliance placed upon it. This publication is distributed on the understanding that the publisher is not engaged in rendering legal, accounting or other professional advice or services. Readers should always seek professional advice before entering into any commitments.

Affordability Safe Harbors

On Form 1095-C, upon a waiver of coverage, employers may enter the applicable affordability safe harbor code (i.e. code 2F, 2G, or 2H), if any, on line 16. The final instructions clarify that codes 2F, 2G, or 2H may be used only if the employer met §4980H(a) requirements and marked “yes” for the month in Part III, column (a) on Form 1094-C. In other words, if the employer is potentially subject to a penalty under §4980H(a) for any particular month for failing to offer coverage to 95% or more of full-time employees and their dependents, use of any of the affordability safe harbor codes on line 16 of Form 1095-C is inappropriate for that month.

Summary

Without any further promises from the IRS in regard to penalty leniency for a good faith effort or extended reporting deadlines for 2016, most employers and vendors will find it something of a relief to have finalized forms and instructions in hand without significant changes so that preparations for 2016 reporting may begin. Although it is likely things will go a bit smoother this year with most employers and vendors now at least familiar with the process, we recommend that employers who have not already begun preparing necessary reporting data and coordinating such efforts with reporting vendors do so soon. This will ensure that statements are prepared for individuals by the end of January and will provide additional time to handle any potential errors that may occur when filing with the IRS (by the end of February if filing by paper or by the end of March if filing electronically).

Final forms and instructions:

- Form 1095-C - <https://www.irs.gov/pub/irs-pdf/f1095c.pdf>
- Form 1094-C – <https://www.irs.gov/pub/irs-pdf/f1094c.pdf>
- Instructions for the “C” forms - <https://www.irs.gov/pub/irs-pdf/i109495c.pdf>