

Employer Shared Responsibility and MEC Reporting (Sections 6055 and 6056, also referred to as Forms 1094 and 1095) –October 2017

The Affordable Care Act (ACA) requires that *Applicable Large Employers (ALEs)* complete reporting requirements for each calendar year. Forms 1094-C and 1095-C are required by sections 6055 and 6056 of the ACA. This information will be used by the IRS to manage the requirements of the Employer Shared Responsibility (e.g. Employer Mandate) and Individual Mandate requirements. The information from the forms will also be used to help determine if individuals will be eligible for premium tax credits at the Health Insurance Marketplace (Exchange).

Calendar year 2017 will be reported in 2018.

Reminder: An **Applicable Large Employer** is an employer with an average of 50 or more full-time employees including full-time equivalents. This is the same description that applies to employers subject to the ACA's Shared Responsibility Requirements.

The requirements for completing these forms vary depending on whether the employer offers a fully-insured plan or a self-insured plan. The following provides an overview of the requirements for employers.

If you are an:

- **Applicable Large Employer that is also Self-Insured:** You will need to complete **Forms 1094-C and 1095-C** (all information required under both Sections 6055 and 6056 of the ACA).
- **Applicable Large Employer that is Fully-Insured:** You will need to complete **Forms 1094-C and 1095-C**, but only the information required under Section 6056 of the ACA. Your insurer will provide the IRS and covered employees with the information required under Section 6055.

Note: If you are **not an Applicable Large Employer** (less than 50 Full-Time Equivalents) but offering a **Self-Insured** medical plan, you may be required to complete Forms 1094-B and 1095-B which are not addressed in this document. See the link below for instructions.

<https://www.irs.gov/instructions/i109495b/ar01.html>

Form 1094-C: Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

This form is referred to as the Transmittal Form and will be submitted to the IRS as the cover sheet to the 1095-C forms. All *Applicable Large Employers* will complete this form.

- Part I – Employers will provide general information about the business including contact name and phone number. Note: if your business has more than one Employer Identification Number (EIN) you will want to pay close attention to the details for employers with multiple EINs.
- Part II – Employers will provide information related to this form filing, including the number of 1095-C forms that will be completed (see below). One (1) Authoritative Form will need to be submitted for each business, but different entities may submit 1094-C forms separately.

Question 22 of Part 2: Certifications of Eligibility – Simplified reporting may be available to some employers, however, we caution that it may be difficult to meet the Affordability requirements described below in A.

- **A. Qualifying Offer Method.** Employer offers MEC that is both Affordable and provides Minimum Value to all Full-Time Employees. Qualifying Offer is Affordable when the cost to an employee does not exceed 9.5% of the Federal Poverty Level.

If you meet A, you may be able to provide simplified or alternative statements to employees instead of completing Form 1095-C. However, Fully-Insured employers still need to send the completed form to the IRS. And, Self-Insured employers still need to complete 1095-C for each employee. See the Instructions for more details. Also, if an employer checks this box they need to follow specific instructions for completing questions 14 and 15 on Form 1095-C.

- **B. Reserved**
- **C. Reserved (revised from the 2016 form).** Section 4980H Transition Relief no longer applies.
- **D. 98% Offer Method.** If an employer offers Minimum Value and Affordable coverage (not exceed 9.5% of any of the Affordability Safe Harbor methods) to at least 98% of employees.

- Part III – This section requires employers to provide information about the following:
 - (a) Group health insurance coverage offered? (e.g, does it meet Minimum Essential Coverage)
 - (b) Full-Time Employee Count (Note: employers are reminded to use the ACA definition of Full-Time employee.)**
 - (c) Total Employees Count
 - (d) Aggregated Group Indicator
 - (e) Reserved (Section 4980H Transition Relief no longer applies.)**

Submission Date: Form 1094-C must be filed with the IRS by February 28 (29 if a leap year) if filing on paper or by March 31 if filing electronically for the preceding calendar year. Calendar year 2017 form filing will need to be submitted to the IRS, along with the 1095-C forms described below, in 2018. If the employer files 250 or more returns, this information must be provided electronically.

Form 1095-C: Employer-Provided Health Insurance Offer and Coverage

This form is the Employer-Provided Health Insurance Offer and Coverage. All Applicable Large Employers will complete this form as described in the instructions. A completed form will be sent to employees and to the IRS as described below. Employers that have a fully-insured health plan will be completing the form differently than employers with self-funded health plans:

Fully-Insured employers: Form 1095-C will need to be provided to the IRS, and to each employee who was a *Full-Time Employee* for any month of the calendar year, regardless of whether that employee was covered under your employer sponsored health insurance plan.

Self-Funded Employers: Form 1095-C will need to be provided to the IRS, and to each employee who was a *Full-Time Employee* for any month of the calendar year, regardless of whether that employee was covered under your employer sponsored health insurance plan. Form 1095-C will also need to be provided to any non-Full Time employees (such as part-time employees) who were enrolled in your employer sponsored health insurance plan

at any time during the year. However, Part III will only include information about employees who were covered by the self-insured plan in 2014.

Sections of the Form: *See the IRS instructions for full details.*

- Part I—Information about the employee and employer. **A note at the top says “Do not attach to your tax return. Keep for your records.”**
- Part II – The following information is required. **See the instructions for the codes:**
 - Offer of Coverage – a code will be entered to describe the coverage offered to the employee. This will include information such as MEC coverage offered to employee, spouse and dependents.
 - Employee Required Contribution. This is the Employee Share of Lowest Cost Monthly Premium for Self-Only Minimum Value Coverage. (This may not be the plan the employee is enrolled in.)
 - Applicable Section 4980H Safe Harbor. A code will be entered for each month to describe the employee’s status of coverage. This section can get fairly detailed. There may be months where an individual employee is not eligible for coverage for reasons such as a *Waiting Period* or *Measurement Period*. The instructions provide multiple codes to help describe the coverage offered, reasons for ineligibility and related information.

If the information is the same for all 12 months then the information can be entered once in the “All 12 months” block.

- Part III – Covered Individuals
 - Fully Insured Employers - Employers with fully-insured health insurance plans do not need to complete this section.
 - Self-Funded Employers - **See Notes about Form 1095-C: Part III**, below, for self-funded employers.

Notes about Form 1095-C: Part III of the form

Fully-Insured Employers: Employers with fully insured health insurance plans do not need to complete Part III. This information will be provided to the IRS and to employees by insurance carriers.

Self-Funded Employers: Employers with self-funded health insurance plans will need to complete Part III. Information must be reported for each individual (employee and any covered dependents as well as COBRA participants and retirees) enrolled in the employer sponsored health insurance plan, by month, for the entire year. This information is reported regardless of the employee’s status as a Full-Time Employee; in other words, information must be reported for all **covered** individuals, even if they only work part-time. No information is reported in this section for Full-Time Employees who elected not to enroll in the employer-sponsored plan.

Submission Dates

Form to Employee: This form must be sent to each employee by January 31 of the year following the end of the calendar year for which reporting is being provided. The form can be mailed via first class mail. It can be sent with the W-2. Form 1095-C can be sent electronically **IF** the employer meets the IRS requirements for electronic distribution which includes the employee specifically providing consent to receive the 1095-C form electronically.

Forms (Return) to IRS: Forms must be sent to the IRS by February 28 (if filing on paper) or March 31 (if filing electronically) of the year following the year to which the return relates. If the employer files 250 or more returns,

this information must be provided electronically. For 2018, employers filing electronically have until Monday, April 2, 2018 to file.

Request for Extensions:

- Page 6 of the 2017 instructions provide instructions for requesting an extension for mailing the 1095-C to employees.
- Page 3 of the 2017 Instructions provide instructions for requesting for extension for filing the 1094-C and 1095-C with the IRS.

An employer can also receive a waiver from the required filing of information returns electronically by submitting form 8508 (Request for Waiver from Filing Information Returns Electronically) at least 45 days before the due date of the returns.

Penalties for failure to submit and provide forms

The 2017 instructions detail the following potential penalties:

- The penalty for failure to file an information return (to the IRS) generally is \$260 for each return.
- The penalty for failure to provide a correct payee statement (e.g., Form 1095-C for employees, COBRA participants if applicable, etc.) is \$260 for each statement.

Additional Information

- 1. Calendar Year data.** The forms must be completed based on calendar year data regardless of whether the employer's health insurance plan runs on a non-calendar year basis.
- 2. Non-Employee Directors.** Self-funded groups that offer employer sponsored coverage to non-employees (for example, COBRA participants non-employee directors) may report these participants on Forms 1094-C and 1095-C.
- 3. Small Employers with Self-Funded Plans.** As noted in the introduction, employers with fewer than 50 full-time / full-time equivalent employees that offer a self-funded health plan will report this information to the IRS and to covered employees using Forms 1094-B and 1095-B. See the link below for information.

<https://www.irs.gov/instructions/i109495b/ar01.html>

Forms and Instructions

<https://www.irs.gov/uac/about-form-1094-c>

<https://www.irs.gov/uac/about-form-1095-c>

Terms:

ACA – Affordable Care Act

Applicable Large Employer (ALE) – An employer with 50 or more full-time employees, including full-time equivalents.

Full-Time Employee - in relation to this form filing refers to the ACA definition of Full-Time Employee which is an employee which averages 30+ hours per week or 130+ hours per month.

Full-Time Equivalent (FTE) – FTE is the sum of all Full-Time Employees plus any additional hours worked by non-full time employees such as part-time, variable and seasonal employees.

MEC – Minimum Essential Coverage as defined by the ACA, which for employers is a group health insurance plan.

Minimum Value – A health plan provides minimum value if the plan pays at least 60 percent of the costs of benefits for a standard population. The health plans deductible, coinsurance, copays, etc. will be used to determine value. Premium and employee contributions are not included.

Qualifying Offer is an offer of health insurance coverage that (1) meets Minimum Essential Coverage (see above) and the cost to the employee for the lowest costing plan that meets Minimum Value requirements and does not exceed 9.5% of the mainland single federal poverty line; and (2) spouses and dependents are offered Minimum Essential Coverage.

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