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Reporting Requirements for Employers and Health Plans

The Affordable Care Act (ACA) created a number of federal reporting requirements for employers and health plans. The additional reporting is intended to promote transparency with respect to health plan coverage and costs. It will also provide the government with information to administer other ACA mandates, such as the large employer shared responsibility penalty and the individual mandate.

This Legislative Brief provides a summary of the following reporting provisions:

ACA Reporting Requirements for Employers and Health Plans

- Form W-2 reporting
- Applicable large employer health coverage reporting (Code § 6056)
- Reporting of health coverage by health insurance issuers and sponsors of self-insured plans (Code § 6055)
- Transparency in coverage reporting and cost-sharing disclosures
- Quality of care reporting

FORM W-2 REPORTING—CURRENTLY EFFECTIVE

ACA requires employers to report the aggregate cost of employer-sponsored group health plan coverage on their employees' Forms W-2. The purpose of the Form W-2 reporting requirement is to provide information to employees regarding how much their health coverage costs.

In general, all employers that provide "applicable employer-sponsored coverage" must comply with the Form W-2 reporting requirement. Applicable employer-sponsored coverage is, with respect to an employee, coverage under any group health plan made available to the employee by the employer which is excludable from the employee's gross income under Code section 106.

The Form W-2 reporting requirement is **optional for small employers for 2012 and 2013**. Small employers will continue to be exempt from the reporting requirement for later years, unless and until the IRS issues further guidance. An employer is considered a small employer if it had to file **fewer than 250 Forms W-2** for the prior calendar year.

Large employers (those that file 250 or more Forms W-2) were required to comply with the reporting requirement beginning in 2012 for the Forms W-2 that were due by the end of January 2013.

APPLICABLE LARGE EMPLOYER HEALTH COVERAGE REPORTING (CODE § 6056)—DELAYED UNTIL 2015

Applicable large employers (ALEs) subject to ACA's employer shared responsibility provisions must file a return with the IRS that reports the terms and conditions of the health care coverage provided to the employer's full-time employees for the calendar year. Related statements must also be provided to employees.

The IRS will use the information that ALEs report to verify employer-sponsored coverage and administer the employer shared responsibility provisions. These shared responsibility provisions impose penalties on ALEs that do not offer

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affordable, minimum value coverage to their full-time employees and dependents. **The ACA's employer penalties were set to take effect on Jan. 1, 2014, but they have been delayed until 2015.**

On March 5, 2014, the Internal Revenue Service (IRS) released [final regulations](#) on the section 6056 reporting requirements. This rule finalizes [proposed regulations](#) issued on Sept. 5, 2013. The final regulations apply for calendar years beginning after **Dec. 31, 2014**. This date reflects the one-year delay provided in [IRS Notice 2013-45](#). However, the IRS is encouraging voluntary compliance for 2014.

An employer qualifies as an ALE under the employer shared responsibility provisions if it employed an average of at least **50 full-time employees**, including full-time equivalents, on business days during the preceding calendar year. Under the final regulations, only ALEs with full-time employees are subject to the filing and statement furnishing requirements of section 6056 (and only with respect to their full-time employees). Thus, **ALEs without any full-time employees are not subject to the section 6056 reporting requirements.**

Each ALE is required to file a section 6056 return with the IRS with respect to its full-time employees. A separate **section 6056 employee statement** is required for each full-time employee, along with a **single transmittal form** for all of the returns filed for a given calendar year. The final regulations include a general method for filing section 6056 returns, as well as several optional alternative methods that may be used with respect to specific groups of employees.

Section 6056 IRS Return

The ALE's **return filed with the IRS** must include the following information:

- The ALE's name, address and employer identification number (EIN);
- The name and telephone number of the ALE's contact person;
- The calendar year for which the information is reported;
- A certification as to whether the ALE offered to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage (MEC) under an eligible employer-sponsored plan, by calendar month;
- The months during the calendar year for which MEC under the plan was available;
- Each full-time employee's share of the lowest cost monthly premium for self-only coverage providing minimum value offered to that full-time employee under an eligible employer-sponsored plan, by calendar month;
- The number of full-time employees for each month during the calendar year;
- The name, address and taxpayer identification number (TIN) of each full-time employee during the calendar year and the months (if any) during which the employee was covered under the eligible employer-sponsored plan during the calendar year; and
- Any other information required by the IRS.

Some of the information will be provided through the use of indicator codes, rather than detailed explanations or summaries. Under the general method of section 6056 reporting, the following information will be reported through the use of indicator codes:

- Whether the coverage offered under an employer-sponsored plan provides minimum value and whether dependent coverage for spouses was offered;
- The total number of employees, by calendar month;

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- Whether an employee's effective date of coverage was affected by a permissible waiting period under the pay or play rules, by calendar month;
- Whether the ALE had no employees or otherwise credited any hours of service during any particular month, by calendar month;
- Whether the ALE is a member of an aggregated group under the Code's controlled group or affiliated service group rules, and, if applicable, the name and EIN of each employer member of the aggregated group;
- If a designated person is reporting on behalf of a governmental unit or agency, the name, address and identification number of the designated person;
- If an ALE contributes to a multiemployer plan, whether, with respect to a full-time employee, the employer is not subject to a pay or play penalty due to the employer's contributions to the multiemployer plan; and
- If a third party is reporting for an ALE, the name, address and identification number of the third party (in addition to the name, address and EIN of the ALE).

With respect to a particular full-time employee, the following information will be reported through the use of a code:

1. MEC providing minimum value was offered to: (a) the employee only; (b) the employee and the employee's dependents only; (c) the employee and the employee's spouse only; or (d) the employee, the employee's spouse and dependents;
2. Coverage was not offered to the employee and: (a) the failure to offer coverage will not result in an employer shared responsibility penalty; (b) the employee was not a full-time employee; (c) the employee was not employed by the ALE during that month; or (d) no other code or exception applies;
3. Coverage was offered to the employee for the month, although the employee was not a full-time employee for that month;
4. The employee was covered under the plan; and
5. The ALE met one of the affordability safe harbors with respect to the employee.

If multiple codes apply with respect to a full-time employee for a particular calendar month, the reporting format will accommodate the necessary codes.

Section 6056 returns must be filed with the IRS annually, no later than **Feb. 28 (March 31, if filed electronically)** of the year immediately following the calendar year to which the return relates. Due to the one-year delay, the first section 6056 returns required to be filed are for the 2015 calendar year, and must be filed no later than **March 1, 2016** (Feb. 28, 2016, being a Sunday), or **March 31, 2016**, if filed electronically.

Under the final regulations, **electronic filing is required for all ALEs filing at least 250 returns under section 6056 during the calendar year**. Only section 6056 returns are counted in applying the 250 return threshold, and each section 6056 return for a full-time employee is counted as a separate return. ALEs filing fewer than 250 returns during the calendar year may choose to file in paper form, but are permitted (and encouraged) to file electronically.

Section 6056 Employee Statement

The section 6056 **employee statement** must include the name, address and EIN of the ALE, and the information required to be shown on the section 6056 return with respect to the full-time employee. Employee statements may identify the employee using an IRS truncated TIN rather than the social security number or other identifying number of the employee shown on the corresponding information return filed with the IRS.

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Section 6056 employee statements must be furnished annually to full-time employees on or before **Jan. 31** of the year immediately following the calendar year to which the employee statements relate. This means that the first section 6056 employee statements (meaning 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.

Employee statements may be furnished electronically if certain notice, consent and hardware and software requirements are met. These electronic furnishing rules are substantially similar to the process currently in place for the electronic furnishing of employee Forms W-2.

Combined Reporting

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.**

As a general method, the section 6056 return may be made by filing Form 1094-C (a transmittal) and Form 1095-C (an employee statement), or other forms the IRS designates. A substitute form may be used, as long as it includes all of the required information and complies with IRS procedures or other applicable guidance. 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.

These forms will be made available in draft form in the near future.

Reporting for Medium-sized ALEs Eligible for the One-year Delay Under the Employer Shared Responsibility Final Rules

On Feb. 10, 2014, the U.S. Treasury Department released [final regulations](#) implementing the employer shared responsibility provisions of the ACA. These final rules include 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 part of this transition relief, 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; and

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- 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); and
- 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).

REPORTING OF HEALTH COVERAGE FOR ISSUERS AND SELF-INSURED PLANS (CODE § 6055)—DELAYED UNTIL 2015

ACA requires every health insurance issuer, sponsor of a self-insured health plan, government agency that administers government-sponsored health insurance programs and any other entity that provides minimum essential coverage (MEC) to file an annual return with the IRS reporting information for each individual who is provided with this coverage. Related statements must also be provided to individuals.

The IRS will use the information from the returns to implement the ACA's individual mandate (that is, the requirement that individuals obtain acceptable health insurance coverage for themselves and their family members or pay a penalty). **The ACA's individual mandate became effective in 2014.**

On March 5, 2014, the Internal Revenue Service (IRS) released [final regulations](#) on the section 6056 reporting requirements. This rule finalizes [proposed regulations](#) issued on Sept. 5, 2013. The final regulations apply for calendar years beginning after **Dec. 31, 2014**. This date reflects the one-year delay provided in [IRS Notice 2013-45](#). However, the IRS is encouraging voluntary compliance for 2014.

For employers with insured group health plans, health insurance issuers are responsible for section 6055 reporting for all insured coverage except:

- Coverage under certain government-sponsored programs (such as Medicaid and Medicare) that provide coverage through a health insurance issuer; and
- Coverage under QHPs through the individual market Exchange.

To avoid collecting duplicate or unnecessary information, issuers are not required to submit section 6055 information returns for coverage under a QHP through an individual market Exchange. The Exchange will provide the necessary information to the IRS and the individual. However, issuers must report on QHPs in the small group market enrolled in through the Small Business Health Options Program (SHOP), because the Exchanges will not be reporting information on these plans.

The **plan sponsor** is responsible for section 6055 reporting for a self-insured group health plan. In general, the plan sponsor is the entity that establishes or maintains the plan. The employer is the plan sponsor for self-insured group health plans established or maintained by a single employer, and each participating employer is the plan sponsor for a plan established or maintained by more than one employer (other than a multiple employer welfare arrangement). For a multiemployer plan, the plan sponsor is the association, committee, joint board of trustees or other group of representatives who establish or maintain the plan.

Section 6055 reporting is not required for arrangements that provide benefits in addition or as a supplement to MEC. Health reimbursement arrangements (HRAs) are considered supplemental coverage to which this rule may apply. In addition, reporting is not required for coverage that is not MEC. Thus, no reporting is required for health savings accounts (HSAs), coverage at on-site medical clinics or for Medicare Part B. However, Medicare Part A qualifies as MEC and is subject to reporting.

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Wellness programs that are an element of other MEC (such as wellness programs offering reduced premiums or cost-sharing under a group health plan) do not require separate section 6055 reporting. The final regulations clarify that MEC that supplements a primary plan of the same plan sponsor or that supplements government-sponsored coverage (such as Medicare) are supplemental coverage not subject to reporting.

Section 6055 IRS Return

The section 6055 **return filed with the IRS** must include the following information:

- The name, address and EIN of the reporting entity;
- The name, address and TIN of the primary insured and each other individual covered under the policy or plan;
- The dates each individual was covered under the policy or plan during the calendar year;
- For each covered individual, the months for which, for at least one day, the individual was enrolled in coverage and entitled to receive benefits; and
- Any other information required by the IRS.

In addition, if coverage is through an employer's group health plan, the return must contain the following information:

- The name, address and EIN of the employer sponsoring the plan;
- Whether the coverage is a QHP enrolled in through the SHOP, and the SHOP's unique identifier; and
- Any other information the IRS may require.

Reporting entities must file the section 6055 information return with the IRS by **Feb. 28** (or **March 31**, if filed electronically) of the year following the calendar year in which they provided MEC.

Any reporting entity who is required to file at least 250 returns under section 6055 must file electronically. The transmittal (Form 1094-B or 1094-C) is not treated as a separate return, but must be electronically filed in the form and manner required by the IRS when the Form 1095 is electronically filed. All other reporting entities that are required to file fewer than 250 returns under section 6055 are permitted, but not required, to file electronically. A substitute form may be used, as long as it complies with IRS procedures or other guidance.

Section 6055 Employee Statements

Every person required to file a return under section 6055 must also furnish a written statement to the responsible individual identified on the return. The statement must show:

- The phone number for a person designated as the reporting entity's contact person and policy number, if any; and
- The information required to be shown on the section 6055 return for the responsible individual and each covered individual listed on the return.

The employee statement must be provided by **Jan. 31** following the calendar year for which the information was required to be reported to the IRS. Reporting entities showing good cause may be allowed the flexibility to apply for an extension of time, not exceeding 30 days, to furnish statements.

Electronic delivery of employee statements is permitted only if the recipient affirmatively consents. The final regulations explicitly allow statement recipients to provide consent and to access section 6055 statements in response to a notice on a website. A reporting entity may simultaneously request consent to receive an electronic section 6055 statement and consent regarding other statements. However, each form must be specifically referenced.

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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.

Combined Reporting

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.** For more information on the combined reporting method, see the "Combined Reporting" section above under the "Applicable Large Employer Health Coverage Reporting (Code § 6056)" heading.

A reporting entity that is reporting under section 6055 as an ALE will file using **Form 1094-C** and **Form 1095-C**, or other form designated by the IRS. Entities reporting as health insurance issuers or carriers, sponsors of self-insured group health plans that are not reporting as ALEs, sponsors of multiemployer plans and providers of government-sponsored coverage will report under section 6055 on **Form 1094-B** and **Form 1095-B**, or other form designated by the IRS. Substitute statements that comply with applicable requirements may be used, as long as the required information is included.

TRANSPARENCY IN COVERAGE REPORTING AND COST-SHARING DISCLOSURES—DELAYED UNTIL AT LEAST 2015

ACA requires health insurance issuers seeking certification of a health plan as a QHP under an Exchange to disclose certain information to the Exchange, Department of Health and Human Services (HHS) and state insurance commissioner. QHP issuers must also make this information available to the public. The information subject to reporting includes, for example, claims payment policies and practices, data on enrollment and disenrollment, data on the number of claims denied, data on rating practices and information on cost-sharing and payments for any out-of-network coverage.

Also, a health plan seeking QHP certification must provide certain cost-sharing disclosures (including deductibles, copayments and coinsurance) to participants upon request. At a minimum, this information must be made available through an Internet website and by other means for individuals without Internet access.

ACA's transparency in coverage reporting and cost-sharing disclosure requirements also apply to non-grandfathered group health plans and health insurance issuers offering group or individual coverage outside of an Exchange. The reporting requirements are identical to those for QHPs, except plans and issuers outside of the Exchange are not required to report information to an Exchange.

Because QHP insurers will not have certain required data until the first year of operation, this reporting requirement will go into effect after a QHP has been certified for one benefit year. This reporting requirement will become applicable to other group health plans and insurers no sooner than when the QHP reporting requirement becomes effective.

It is expected that HHS will issue more guidance on this reporting requirement, including how it applies to health plans and issuers offering coverage outside of an Exchange.

QUALITY OF CARE REPORTING—EFFECTIVE DATE TO BE DETERMINED

ACA requires group health plans and health insurance issuers to submit an annual report to HHS regarding plan benefits and provider "reimbursement structures" that may affect the quality of care in certain ways. Grandfathered plans are not subject to ACA's "quality of care" reporting requirement.

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In general, the report must address whether the plan or coverage:

- Improves health outcomes through activities such as quality reporting, effective case management, care coordination, chronic disease management, and medication and care compliance initiatives (including the medical homes model);
- Implements activities to prevent hospital readmissions using a comprehensive discharge program and post-discharge reinforcement;
- Implements activities to improve patient safety and reduce medical errors through best clinical practices, evidence-based medicine and health information technology; and
- Implements wellness and health promotion activities.

The annual quality of care reports will be available to the public through an Internet website. This report must also be provided to enrollees under the plan or coverage during each open enrollment period.

ACA does not include a compliance deadline for the quality of care reporting requirement. ACA required HHS to issue guidance on this reporting requirement by March 23, 2012 (that is, two years after ACA's enactment date). However, HHS has not yet issued this guidance. When this guidance is issued, it will likely specify a compliance deadline for plans and issuers.

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