



AMERICAN BENEFITS COUNCIL

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SUMMARY OF IRS GUIDANCE ON EMPLOYER ACA INFORMATION REPORTING USING FORMS 1094-C AND 1095-C

On December 22, the Internal Revenue Service (IRS) updated a [Question-and-Answer document](#) providing additional detail on how employers are to comply with the health insurance reporting requirements under Internal Revenue Code sections 6055 and 6056 (using forms 1094-C and 1095-C), as added by the Affordable Care Act (ACA).

Code Section 6056 requires every applicable large employer member (ALE member - generally, an employer that, along with other employers in its controlled group, employed on average at least 50 full-time employees or equivalents) to file a return with the IRS and furnish statements to full-time employees that reports the terms and conditions of the health care coverage provided to the employer's full-time employees during the year. [Form 1095-C: Employer-Provided Health Insurance Offer and Coverage](#) is to be used to fulfill this requirement, while [Form 1094-C: Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns](#) is to be used for transmitting the Forms 1095-C to the IRS.

Employers, including non-ALE members, that provide self-insured coverage are subject to the reporting requirements of Section 6055. Section 6055 requires every health insurance issuer, sponsor of a self-insured health plan, government agency that administers government-sponsored health insurance programs and other entities that provide minimum essential coverage (MEC) to file annual returns with the IRS and furnish statements to individuals that reports certain information for each individual for whom MEC is provided. As noted in Question No. 1 under [Basics of Employer Reporting](#), ALE members that sponsor self-insured plans will combine section 6055 and 6056 reporting on Form 1095-C (employers that are not ALE members report on the Forms 1094-B and 1095-B).

The IRS has revised [Questions and Answers on Information Reporting by Employers on Form 1094-C and Form 1095-C](#), which provides the following guidance with respect to the reporting of health care coverage:

- [Basics of Employer Reporting](#) (Questions 1-10)

- [Reporting Offers of Coverage and other Enrollment Information](#) (Questions 11-19)
- [Reporting for Governmental Units](#) (Questions 20-21)
- [Reporting Offers of COBRA Continuation Coverage and Post-Employment Coverage](#) (Questions 22-25)
- [Reporting Coverage under Health Reimbursement Arrangements \(Form 1095-C, Part III\)](#) (Questions 26-27)]

Some notable Questions and Answers are:

- Although an employee who is covered under TRICARE or a Veterans Administration health program are not counted in determining whether an employer is an ALE, if the employer is an ALE, it still must furnish and file a Form 1095-C for such employee if he/she was full-time. (Q&A 7)
- For the first month of employment, the ALE member should use code 1H unless the employee was offered coverage that extended to every day of the month. If the employee's first day of employment was any day other than the first of the month, the ALE member can use code 2D, limited non-assessment period, so that it will not be subject to a 4980H penalty with respect to that employee for that month. But, if the employee enrolled in self-insured coverage for any day of that month, even if it was not for the entire month, the ALE member should report that the employee had coverage for that month in Part III. (Q&A 12)
- For the last month of employment, the ALE member should use code 1H unless the employee was offered coverage that extended to every day of the month. If the employee's coverage would have extended to the end of the month had the employee remained employed, the ALE member can use code 2B, employee not a full-time employee, so that it will not be subject to a 4980H penalty with respect to that employee for that month. But, if the employee enrolled in self-insured coverage for any day of that month, even if it was not for the entire month, the ALE member should report that the employee had coverage for that month in Part III. (Q&A 13)
- An ALE member should only report the cost of the coverage on line 15 if the coverage provided minimum value. This amount is the lowest cost self-only coverage offered to the employee, which may not be the same amount as the premium the employee pays for coverage. For example, if the employee enrolls in more expensive coverage or the employer offers other arrangements that could affect the employee's cost of coverage, such as certain HRA contributions, wellness program incentives, flex credits, and opt-out payments. (Q&A 14)
- An ALE member is not required to enter a code on line 16, but can to show the IRS that it qualifies for an exception to the 4980H(b) penalty. (Q&A 15)

- There is no specific code that is entered on line 14 to indicate that a full-time employee is offered coverage but did not enroll. If the ALE member qualifies to use a 4980H(b) safe harbor code, it may do so on line 16. (Q&A 16)
- To report enrollment in a self-insured plan for an individual who was not a full-time employee for any day of the year, such as a non-employee COBRA beneficiary who has coverage independent of the employee, the ALE member should use code 1G on line 14 and complete Part III. However, if the ALE member does not know the individual's social security number, it must use Form 1095-B rather than 1095-C. All family members who are covered due to the individual's enrollment, such as spouse of a retiree, should be included on the same Form 1095-C as the individual who enrolls in the coverage. (Q&A 17)
- An ALE member can use the Qualifying Offer method if it (1) made an offer of MEC that provides minimum value, (2) the employee cost for self-only coverage for each month does not exceed 9.5% (as indexed) of the federal poverty line divided by 12, and (3) an offer of MEC is also made to the employee's spouse and dependents, if any. If the ALE member qualifies to use the method, it should check box A on line 22 of the Form 1094-C and should enter code 1A on line 14 of the Form 1095-C. It can leave lines 15 and 16 blank. The ALE member must file the Form 1095-C with the IRS with respect to all full-time employees and must furnish the Form 1095-C to its full-time employees, but it can furnish an alternative statement containing certain information to the full-time employees who do not enroll in the self-insured coverage instead of the Form 1095-C. (Q&A 18)
- If an ALE member, taking into account all months during which the individuals were employees of the employer and were not in a limited non-assessment period, has offered affordable (under an affordability safe harbor) coverage providing minimum value to at least 98% of the employees for whom it is filing a Form 1095-C and has offered MEC to the employee's dependents, it can use the 98% offer method. If an ALE member is using this method, it should check box D on line 22 of the Form 1094-C and is not required to determine whether all of the employees for whom it is reporting were full-time and can leave Part III(b) of the Form 1094-C (full-time employee count) blank. (Q& 19)
- An offer of COBRA coverage that is made to a former employee due to termination of employment is not reported as an offer. If the ALE member is otherwise required to complete a Form 1095-C for the employee (e.g., because the employee was a full-time employee for part of the year), the ALE member should use code 1H on line 14 for any month the individual was offered COBRA coverage. For those same months, the ALE member should use code 2A on line

16, even if the former employee enrolled in the COBRA coverage. But, the ALE member must report the months of enrollment in Part III. (Q&A 22)

- An offer of COBRA coverage that is made to an active employee due to a reduction in hours is reported as an offer. The code on line 14 should reflect only the individuals who received an offer of coverage at the same time the COBRA coverage was offered. This is because only the individuals who receive an offer of COBRA coverage are potentially ineligible for the premium tax credit. But, for purposes of 4980H(a) (and presumably the Form 1094-C), the ALE member will be treated as having made an offer to a full-time employee's dependents for an entire plan year if the ALE member provided the employee an effective opportunity to enroll the dependent's at least once for the plan year, even if the employee declined to enroll the dependents, and as a result, the dependents didn't receive an offer of COBRA coverage. (Q&A 23)
- An ALE member can report COBRA coverage for spouses and dependents of employees who separately elect COBRA coverage independently of the employee on either the Form 1095-B or 1095-C. (Q&A 24)
- An offer of post-employment coverage that is not required to be offered by reason of COBRA (i.e., non-COBRA coverage) is not reported as an offer of coverage in Part II of Form 1095-C. If the ALE Member is otherwise required to complete a 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 ALE Member should use code 1H, No offer of coverage, on line 14 for any month that the former employee was offered this non-COBRA post-employment coverage. For those same months, the ALE Member 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). (Q&A 25)
- An employer must report enrollment in an HRA unless an exception applies. One exception is for an individual covered under two or more plans or programs that are MEC and are provided by the same reporting entity. For example, if an individual is enrolled in an employer's self-insured major medical plan and an HRA, the employer is not reported to report coverage under the HRA for the individual. Another exception is where the individual is eligible for the HRA because he/she is enrolled in the employer's insured group health plan for which reporting is required. For employer-sponsored coverage, this second exception only applies if both coverages are sponsored by the same employer. (Note the Q&A does not address how this exception applies to HRAs only available to individuals enrolled in Medicare, which is also not addressed in the proposed regulations on these exceptions.) (Q&As 26, 27)

As reflected in Question 5, the IRS recently issued a [notice](#) extending the due date for furnishing individuals with Forms 1095-C and 1095-B from January 31, 2017 to March 2, 2017, and extends good faith transition relief for both Forms furnished to individuals and filed with the IRS to 2016. (See the [November 18 Benefits Byte](#) for more information on the furnishing deadline extension.) The IRS did not, however, extend the deadline for filing the Forms with the IRS.