



Health Care Reform

LEGISLATIVE BRIEF

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Employer Reporting of Health Coverage—Code Sections 6055 & 6056

The Affordable Care Act (ACA) created new reporting requirements under Internal Revenue Code (Code) sections 6055 and 6056. Under these new reporting rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees.

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.

On March 5, 2014, the Internal Revenue Service (IRS) released two final rules on the ACA's health coverage reporting requirements.

- The first [final rule](#), on the section 6055 reporting requirements, requires health insurance issuers, self-insured health plan sponsors, government agencies that administer government-sponsored health insurance programs and any other entity that provides minimum essential coverage (MEC) to report information on that coverage to the IRS and covered individuals. This rule finalizes [proposed regulations](#) issued on Sept. 5, 2013.
- The second [final rule](#), on the section 6056 reporting requirements, requires applicable large employers (ALEs) subject to the pay or play rules to report to the IRS and covered individuals information on the health coverage offered to full-time employees. 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.

EFFECTIVE DATE

The Code sections 6055 and 6056 reporting requirements were set to take effect in 2014. However, on July 2, 2013, the Treasury Department [announced](#) that it will provide employers with an additional year to comply with these health plan reporting requirements. **Thus, the Code sections 6055 and 6056 reporting requirements will become effective in 2015.** The first returns will be due in 2016 for coverage provided in 2015.

On July 9, 2013, the IRS issued Notice 2013-45 to provide **transition relief for 2014** for the Code sections 6055 and 6056 information reporting requirements. Under the transition relief, employers are encouraged to voluntarily comply with the reporting requirements for 2014 (that is, by filing and furnishing section 6056 returns and statements in early 2015). However, compliance with the reporting rules is completely optional for 2014 and no penalties will be applied for failing to comply.

Those that wish to voluntarily comply with the information reporting requirements in 2014 should do so in accordance with the final regulations. This means that reporting entities should provide both section 6056 and section 6055 information, if applicable, on a single form.

According to the IRS, real-world testing of reporting systems and plan designs, built in accordance with the final regulations, through voluntary compliance for 2014 will contribute to a smoother transition to full implementation for 2015.

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OVERVIEW

TYPE OF REPORTING	AFFECTED EMPLOYERS	REQUIRED INFORMATION	EFFECTIVE DATE
Code §6056 —Applicable large employer (ALE) health coverage reporting	Applicable large employers (those with at least 50 full-time employees, including full-time equivalents)	Terms and conditions of health plan coverage offered to full-time employees (helps the IRS administer the ACA’s employer shared responsibility penalty)	Delayed until 2015 The first returns will be due in 2016 for coverage provided in 2015
Code §6055 —Reporting of health coverage by health insurance issuers and sponsors of self-insured plans	Employers with self-insured health plans	Information on each individual provided with coverage (helps the IRS administer the ACA’s individual mandate)	

APPLICABLE LARGE EMPLOYER HEALTH COVERAGE REPORTING (CODE § 6056)

Applicable large employers subject to the 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 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.**

Affected Employers

The section 6056 reporting requirements apply to “applicable large employers” (ALEs). 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. Full-time employees are those employed on average for at least 30 hours of service per week. Whether an employee qualifies as a full-time employee is determined under the employer shared responsibility rules for determining full-time employee status.

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.**

Related employers are treated as a single employer for determining employer size if they meet certain IRS criteria. However, each large employer (and each member of a group of related companies that constitute an ALE) is responsible for its own reporting obligations.

Section 6056 reporting related to full-time employees eligible to participate in a multiemployer plan may be provided in a bifurcated manner. Under this approach, one return, filed by the multiemployer plan administrator, would pertain to the employees eligible to participate in the multiemployer plan. A separate return filed by the employer would pertain to the remaining full-time employees who are not eligible to participate in a multiemployer plan.

ALEs can use third parties to facilitate filing returns and furnishing employers statements, but the employer retains responsibility for providing the information and liable for penalties for failure to comply. However, an ALE that is a governmental unit or agency may report on its own or may designate (in writing) another person to report on its

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behalf, as long as the designation meets certain criteria. In this case, the designated person is responsible for providing the information and liable for penalties for failure to comply.

Filing Deadlines

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.

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

The final regulations do not permit an alternate filing date for employers with non-calendar year plans. While Treasury and the IRS understand that employers may collect information on a plan year basis, employees will need to receive their section 6056 employee statements early in the calendar year in order to have the requisite information to correctly and completely file their income tax returns for that calendar year.

Required Filings

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.

General Reporting Method

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.

The section 6056 employee statement may be made by furnishing:

- A copy of the section 6056 return on Form 1095-C for that full-time employee (or another form the IRS designates); or
- A substitute employee statement for that full-time employee, as long as it includes all of the required information and complies with IRS procedures or other applicable guidance.

The employee statement is not required to include a copy of the transmittal form that accompanies the return. As part of the alternative reporting methods, in certain circumstances, other methods of furnishing information to an employee may be sufficient.

Alternative Methods

The final regulations provide several optional alternative reporting methods designed to minimize the cost and administrative tasks for employers. These alternative reporting methods are all optional, and an ALE may use any other available reporting method. In addition, an ALE is permitted to use different alternative reporting methods for different employees at the employer's election. Further details for each of these alternative methods will be provided in forms and instructions.

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The IRS has identified the following specific groups of employees for whom alternative reporting is available:

REPORTING BASED ON CERTIFICATION OF QUALIFYING OFFERS

The first alternative method applies with respect to an ALE that **certifies on its transmittal form that it offered certain coverage (a qualifying offer) to one or more of its full-time employees**. A “qualifying offer” occurs when, for all months during the year in which the employee was a full-time employee with respect to whom an employer shared responsibility penalty could apply, the ALE:

- Offers MEC providing minimum value at an employee cost for self-only coverage of less than 9.5 percent of the mainland single federal poverty line to one or more of its full-time employees; and
- Offers MEC to the employee’s spouses and dependents. (The employer shared responsibility final rules provide transition relief for certain ALEs that do not offer dependent coverage in 2015. An ALE using this transition relief **will not be treated as offering dependent coverage** under this alternative reporting method.)

For employees who received a qualifying offer for all 12 months of the calendar year, the ALE will be treated as complying with section 6056 if it takes the following two steps:

- **Report simplified section 6056 return information with respect to those employees.** The ALE will file Form 1095-C with the IRS, providing only the employee’s name, social security number and address, and indicating (using an indicator code) that a qualifying offer was made for all 12 months of the calendar year.
- **Provide a simplified employee statement in lieu of a copy of the Form 1095-C**, by Jan. 31 of the year following the year to which the offer applies, to each full-time employee who received a qualifying offer for all 12 months. This statement (provided in a format prescribed by the IRS) will inform the employee that the employee (and the employee’s spouse and dependents, if any) received a qualifying offer for all 12 months of the calendar year, and therefore are generally ineligible for a premium tax credit for all of those 12 months.

For each employee who received a qualifying offer for fewer than 12 months, the ALE will use the general reporting method. However, the ALE may use an indicator code to report for months in which a qualifying offer was received.

Alternative Method Based on Certification of Qualifying Offers for 2015

The final regulations include transition relief for ALEs in 2015 that certify on the transmittal form that they have made a qualifying offer to **at least 95 percent of their full-time employees** (and to their spouses and dependents). Solely for 2015, these ALEs will be treated as complying with section 6056 if they take the following two steps:

- **Report simplified section 6056 return information with respect to those employees.** The ALE will file Form 1095-C with the IRS, providing only the employee’s name, social security number and address, and indicating (using an indicator code) that a qualifying offer was made for all 12 months of the calendar year.
- **Provide a simplified employee statement in lieu of a copy of the Form 1095-C**, by Jan. 31 of the year following the year to which the offer applies, to each full-time employee. This statement will be in a form at prescribed by the IRS, and may vary depending on whether the employee received a qualifying offer for all, some or no months of the calendar year. If the qualifying offer applied to an employee for all 12 months of the calendar year, the statement will inform the employee that the employee (and the employee’s spouse and dependents, if any) will not be eligible to claim a premium tax credit for any of the 12 calendar months. If the qualifying offer did not apply to an employee for all 12 months of the calendar year, the statement will inform the employee that the employee (and the employee’s spouse and dependents, if any) may be eligible to claim a premium tax credit for one or more of the 12 calendar months. The statement must also include a name and telephone number that the employee can contact for further information regarding the offer of coverage.

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REPORTING BASED ON CERTIFICATION OF 98 PERCENT OFFERS

The second alternative method applies with respect to an ALE that certifies on its transmittal form that it **offered MEC that is affordable and provides minimum value to at least 98 percent of its full-time employees** on whom it reports in its section 6056 return. For this purpose, coverage is treated as affordable if the cost of employee-only coverage satisfies any applicable affordability safe harbor under the employer shared responsibility final regulations.

This alternative method allows eligible ALEs to provide section 6056 reporting without:

- Determining whether each employee offered coverage is a full-time employee; or
- Specifying the number of the employer's full-time employees.

This alternative method is designed to ensure that the employer has offered coverage to "substantially all" of its full-time employees, and therefore is not subject to an employer shared responsibility penalty, without having to know which reported employees are full-time and which are part-time.

Although this alternative method allows reporting without identifying or specifying the number of full-time employees, it does not exempt the employer from any penalties that might apply for failure to report with respect to any full-time employee. Thus, reporting is still required under the normal rules for all full-time employees, including those employees not offered coverage.

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 ACA's employer shared responsibility provisions. 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
- 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).

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Information Required to Be Reported—IRS Return

The large employer'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.

The final regulations do not require employers to report whether they expect to be an ALE the following year.

Most employer-sponsored health plans will qualify as MEC. The ACA broadly defines MEC to include both insured and self-insured group health plans, as well as plans with grandfathered status under the ACA. However, MEC does not include specialized coverage, such as coverage only for vision care or dental care, workers' compensation, disability policies or coverage only for a specific disease or condition.

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;
- 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;

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- 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.

Information Required to Be Reported—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.

Manner of Filing and Furnishing

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.

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Employee statements may also 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.

With respect to each full-time employee to whom the information is required to be furnished, the ALE must obtain consent from the employee before the section 6056 employee statement may be provided electronically. The consent must specifically identify the section 6056 return; an employee's consent to receive the Form W-2 electronically may not be considered a consent to also receive the employee statement under section 6056 electronically.

The final regulations also specify that it is not sufficient for an ALE to simply post the information on a website accessible to the employee (similar to the current process for furnishing SBCs), or to provide the information to an employee only upon request.

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

The 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.**

Entities Subject to Section 6055 Reporting

Under the section 6055 reporting requirements, every person that provides MEC to an individual during a calendar year must report on the health coverage provided. Reporting entities include health insurance issuers, self-insured plan sponsors, government-sponsored programs and other entities that provide MEC. To ensure complete and accurate reporting, the final regulations require section 6055 reporting for all covered individuals.

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.

For purposes of identifying the employer, the section 414 employer aggregation rules do not apply. Thus, a self-insured group health plan or arrangement covering employees of related companies is treated as sponsored by more than one employer, and each employer is required to report for its employees. However, one member of the group may assist the other members by filing returns and furnishing statements on behalf of all members.

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Most employers that sponsor self-insured group health plans are applicable large employers (ALEs) required to report under both section 6056 and section 6055. ALEs apply the rules under section 6056 for identifying the reporting entities in a controlled group. Employers in controlled groups that are not ALEs, and reporting entities (such as issuers) that are not reporting as employers, may report under section 6055 as separate entities, or one entity may report for the group.

Reporting entities are permitted to use third parties to facilitate filing returns and furnishing statements to comply with section 6055 reporting requirements. However, these arrangements do not transfer the potential liability for failure to report. In contrast, a government employer that maintains a self-insured group health plan or arrangement may designate (in writing) another governmental unit, agency or instrumentality as the person responsible for section 6055 reporting.

Coverage Not Subject to Section 6055 Reporting

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.

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.

Information Required to Be Reported

Section 6055 requires the reporting of several data elements that are not required by taxpayers for preparing their tax returns or by the IRS for tax administration. The return 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.

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

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- The information required to be shown on the section 6055 return for the responsible individual and each covered individual listed on the return.

Filing Deadlines

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.

The entity required to file the IRS return must also furnish a written statement to each individual listed on the return. The 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.

Manner of Filing and Furnishing

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.

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.

Electronic delivery of statements to individuals 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.

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.**

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.

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- 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.

PENALTIES

A reporting entity that fails to comply with the section 6055 or section 6056 reporting requirements may be subject to the general reporting penalties for failure to file correct information returns and failure to furnish correct payee statements. However, penalties may be waived if the failure is due to reasonable cause and not to willful neglect.

The final regulations also include short term relief from penalties to allow additional time to develop appropriate procedures for data collection and compliance with these new reporting requirements. **For returns and statements filed and furnished in 2016 to report offers of coverage in 2015, the IRS will not impose penalties on reporting entities that can show they make good faith efforts to comply with the information reporting requirements.**

This relief is provided only for incorrect or incomplete information reported on the return or statement, including social security numbers, TINs or dates of birth. No relief is provided for reporting entities that do not make a good faith effort to comply with these regulations or that fail to timely file an information return or statement.

This Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

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