

CLIENT ALERT
FROM:



IRS Releases Final Regulations on ACA Reporting for Employers and Insurers

On Wednesday, March 5, 2014, the Internal Revenue Service (IRS) released final regulations (Final Regulations) on two reporting requirements under the Affordable Care Act (ACA) effective in 2015.

The ACA added Sections 6055 and 6056 to the Internal Revenue Code (Code). Code § 6055 requires reporting by all entities that provide insurance (insurance companies, self-insured employers, governmental entities and others) which is filed with the IRS and given to the individuals to whom they provide “minimum essential coverage” (MEC). Code § 6056 reporting is filed with the IRS and given to individuals and is used to report whether applicable large employers—those with 50 or more full-time employees, including full-time equivalents (FTEs)—offered coverage to their full-time employees that meets the affordability requirements of the ACA’s pay-or-play mandate.

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The IRS released proposed regulations (Proposed Regulations) last year. The Final Regulations largely follow the Proposed Regulations but also simplify the proposed rules for both employers and issuers. A single, combined form is available for self-insured employers, which are generally subject to both reporting requirements. Large employers with fully insured group health plans will complete only the top half of the form for Code § 6056 reporting, while the insurance company will complete a separate form to satisfy its Code § 6055 obligation. The rules are particularly streamlined for employers that make highly affordable coverage available to employees, including an offer of coverage to their spouses and dependents.

SIGNIFICANT REPORTING RELIEF AVAILABLE

The Final Regulations include the “general method” for reporting that was described in the Proposed Regulations. However, significant relief from extensive and potentially duplicative reporting is provided in the form of two simplified reporting options which greatly reduce the reporting burden.

“Qualifying Offers”

If an employer provides a “qualifying offer” of insurance to any of its full time employees, the Final Regulations provide a simplified alternative to reporting monthly, employee-specific information on those employees. A qualifying offer is an offer of minimum value coverage that annually costs the employee no more than 9.5 percent of the Federal Poverty Level (approximately \$1,100 in 2014) for single coverage, combined with an offer of MEC to the employee’s spouse and dependent children (natural and adopted children).

Employers who can certify that they made a qualifying offer for all 12 months of the year will need to certify the offer and report only the names, addresses, and tax ID numbers (TINs) of those employees who receive the qualifying offers. Employers will also provide the employees a copy of that simplified report or a standard statement indicating that the employee received a full-year qualifying offer.

Employers will be permitted to use a code for each month a qualifying offer was made for any employee who receives a qualifying offer for fewer than 12 months of the year.

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For 2015 only, employers certifying that they have made a qualifying offer to at least 95% of their full-time employees (plus an offer to their spouses and children) will be able to use the simplified reporting method for their entire workforce, including for any employees who do not receive a qualifying offer for the full year. Those employers will provide employees with standard statements relating to their possible eligibility for premium tax credits.

“Option to Report without Separate Certification of Full-Time Employees”

This option allows employers who offer affordable, minimum value coverage to at least 98% of the employees named in the report to certify the offering without having to identify full-time status. This may be useful for employers that offer coverage to all employees – in that case, as long as coverage is affordable and minimum value, the reports do not have to identify which employees on the report are full-time.

“General Method of Reporting”

In the event an applicable large employer does not qualify to use a simplified reporting method, it must make a section 6056 information return with respect to each full-time employee. Each Code § 6056 information return must show:

- Employer name, address, and Tax ID;
- Name and phone number of employer’s contact person;
- Calendar year for which the information is reported;
- Whether the employer provided minimum essential coverage (MEC) to full-time employees and their dependents;
- Months minimum essential coverage was available;
- Each full-time employee’s monthly cost for employee-only coverage under the employer’s minimum value plan;
- Number of full-time employees for each month ;
- Name, address, and tax ID of each full-time employee during the year and the months the employee was covered; and
- Any other information specified in forms, instructions, or published guidance.

REPORTING FORMS

Generally, the Final Regulations provide that the Code § 6056 return may be made by filing Form 1094-C (a transmittal) and Form 1095-C (an employee statement). Form 1095-C will be used by employers to satisfy the Code §§ 6055 and 6056 reporting requirements, as applicable. An employer that sponsors a self-insured plan will report on Form 1095-C, completing both sections. An employer that offers fully insured coverage will also report on Form 1095-C, but will complete only the top half of the form. Form 1095-B will be used by non-employer entities that are reporting for Code § 6055 purposes (e.g., health insurance issuers, self-insured multiemployer plans, and providers of government-sponsored coverage).

Employers must file Form 1094-C with the IRS by February 28 following the reporting year (March 31 if filing electronically) and must provide Form 1095-C to full-time employees by January 31 following the reporting year.

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All forms have yet to be developed. Electronic delivery is permissible with the affirmative consent of the employee.

EFFECTIVE DATES

- Both reporting rules are effective starting in 2014; however, compliance is voluntary until 2015. This means that the mandatory reporting is first required in the first quarter of 2016 for calendar year 2015.
- This also applies to employers with 50-99 FTEs, who are exempt from the pay-or-play mandate in 2015 (and generally for any portion of the plan year that extends into 2016). Despite their exemption from the penalty, they are still subject to Code § 6056 reporting for 2015. These employers must certify on their Code § 6056 reporting filed in 2016 that they meet the requirements described in the final regulations on the pay-or-play mandate to delay application of the pay-or-play requirements. Employers with 50-99 FTEs that sponsor non-calendar year plans will use the Code § 6056 form filed in 2017 to certify their status for the months of their 2015 plan year that fall in calendar year 2016.

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