



# 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 these reporting requirements, which apply for calendar years beginning after **Dec. 31, 2014**. This date reflects a one-year delay provided in [IRS Notice 2013-45](#). However, the IRS is encouraging voluntary compliance for 2014. The IRS also released [Q&As on Section 6055](#) and [Q&As on Section 6056](#).

Also, on Feb. 8, 2015, the IRS released **final versions of forms and instructions** that employers will use to report under Sections 6055 and 6056 for 2014. **These forms are not required to be filed for 2014**, but reporting entities may voluntarily file them in 2015 for 2014 coverage. Forms and instructions for 2015 reporting have not yet been released and may contain some changes from these 2014 versions.

### EFFECTIVE DATE

The Code Sections 6055 and 6056 reporting requirements were set to take effect in 2014. However, on July 2, 2013, the Treasury [announced](#) that employers will have 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 Code Sections 6055 and 6056. 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 is optional for 2014 and no penalties will be applied for failing to comply.

### OVERVIEW

TYPE OF REPORTING	AFFECTED EMPLOYERS	REQUIRED INFORMATION	EFFECTIVE DATE
<b>Code §6055</b> —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)	<b>Delayed until 2015</b> The first returns will be due in 2016 for coverage provided in 2015
<b>Code §6056</b> —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)	

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## Filing Requirements

Under both Sections 6055 and 6056, each reporting entity will be required to file all of the following with the IRS:

- A separate **statement** for each individual who is provided minimum essential coverage (MEC) (for ALEs, this includes only full-time employees); and
- A single **transmittal form** for all of the returns filed for a given calendar year.

Under Code Section 6055, reporting entities will generally file Forms [1094-B](#) (a transmittal) and [1095-B](#) (an information return). Under Code Section 6056, entities will file Forms [1094-C](#) (a transmittal) and [1095-C](#) (an information return) for each full-time employee for any month. Entities that are reporting under both Sections 6055 and 6056 will file using a combined reporting method, using **Form 1094-C** and **Form 1095-C**.

ALEs that sponsor self-insured plans	ALEs that sponsor insured plans	Non-ALEs that sponsor self-insured plans	Non-ALEs that sponsor insured plans
Complete: <b>Form 1094-C</b> + <b>Both sections of Form 1095-C</b>	Complete: <b>Form 1094-C</b> + <b>The section of Form 1095-C addressing the information under Section 6056</b>	File: <b>Form 1094-B</b> + <b>Form 1095-B</b>	These employers are not required to report under either Section 6055 or Section 6056.
To report: (1) Information under Section 6055 about health coverage provided; and (2) Information under Section 6056 about offers of health coverage.	To satisfy the Section 6056 reporting requirements. These employers are not required to report under Section 6055.	To satisfy the Section 6055 reporting requirements. These employers are not required to report under Section 6056.	

## Deadlines

These forms must be filed with the IRS annually, no later than **Feb. 28 (March 31, if filed electronically)** of the year following the calendar year to which the return relates. Due to the one-year delay, the first returns required to be filed are for the 2015 calendar year, and must be filed no later than **Feb. 29, 2016** (Feb. 28, 2016, being a Sunday), or **March 31, 2016**, if filed electronically.

Each reporting entity will also be required to furnish statements annually to individuals who are provided MEC (for ALEs, this includes only full-time employees) on or before **Jan. 31** of the year immediately following the calendar year to which the statements relate. This means that the first statements (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 rules do not allow an alternate filing date for employers with non-calendar year plans. Although employers may collect information on a plan year basis, employees will need to receive their individual statements early in the year in order to have the requisite information to correctly and completely file their income tax returns for that year.

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## ***Manner of Filing and Furnishing***

**Any reporting entity that is required to file at least 250 returns under Section 6055 or Section 6056 must file electronically.** The 250-or-more requirement applies separately to each type of return and separately to each type of corrected return. Entities filing fewer than 250 returns during the calendar year may choose to file in paper form, but are permitted (and encouraged) to file electronically.

Individual statements may also be furnished electronically if certain notice, consent and hardware and software requirements are met (similar to the process currently in place for the electronic furnishing of employee Forms W-2). The consent must specifically identify each form; an employee's consent to receive a Form W-2 electronically may not be considered a consent to also receive the employee statement under Sections 6055 or 6056 electronically. It is not sufficient for an entity to simply post the information on a website accessible to the individual (similar to the current process for furnishing SBCs), or to provide the information only upon request.

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.

## **APPLICABLE LARGE EMPLOYER HEALTH COVERAGE REPORTING (CODE § 6056)**

Code Section 6056 requires applicable large employers (ALEs) subject to the ACA's employer shared responsibility rules to file information returns with the IRS and provide statements to their full-time employees about the health insurance coverage the employer offered. The IRS will use the information provided on the information return to administer the ACA's employer shared responsibility rules, which 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.** The IRS and the ALE's employees will use the information provided as part of the determination of whether an employee is eligible for a premium tax credit for coverage purchased through an Exchange under the ACA.

On March 5, 2014, the IRS released a [final rule](#) on the Section 6056 reporting requirements, which finalizes [proposed regulations](#) issued on Sept. 5, 2013. In addition, on Feb. 8, 2015, the IRS released final versions of the following forms, along with related [instructions](#), that employers will use to report under Section 6056, as well as for combined reporting by ALEs who report under both Sections 6055 and 6056:

- [Form 1094-C](#), Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Return; and
- [Form 1095-C](#), Employer-Provided Health Insurance Offer and Coverage.

[Q&As on Section 6056](#) were also released in August 2014. These forms and instructions are **2014 versions** that may be used for filing in 2015 related to 2014 coverage. **These forms are not required to be filed for 2014**, but reporting entities may voluntarily file them in 2015 for 2014 coverage. Forms and instructions for 2015 reporting have not yet been released, and may contain some changes from these 2014 versions.

## ***Affected Employers***

The Section 6056 reporting requirements apply to "applicable large employers" (ALEs) subject to the ACA's employer shared responsibility rules. An ALE is an employer that employed an average of at least **50 full-time employees**, including full-time equivalents (FTEs), on business days during the preceding calendar year. Full-time employees are those employed, on average, at least 30 hours of service per week. Whether an employee qualifies as a full-time employee is determined under either the look-back measurement method or the monthly measurement method, as described in the employer shared responsibility [final regulations](#).

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Section 6056 applies to all employers that are ALEs, regardless of whether coverage is offered to full-time employees, and regardless of the employer is a tax-exempt or government entity (including federal, state, local and Indian tribal governments). However, only ALEs with full-time employees are subject to the Section 6056 requirements (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.**

## *Controlled Group Rules*

For purposes of the Section 6056 reporting requirements, related employers are treated as a single employer for determining employer size if they meet certain IRS criteria. Thus, all persons treated as a single employer under Code Sections 414(b), (c), (m) or (o) are combined and treated as a single employer for purposes of determining whether or not the employer has at least 50 full-time employees (including FTEs) and together will be an ALE (called an Aggregated ALE Group). When the combined total of full-time employees (including FTEs) meets the threshold, each separate company (or ALE member) is subject to the Section 6056 reporting requirements, even if any particular company individually does not employ enough employees to meet the 50-full-time-employee threshold.

However, each ALE (and each member of a group of related companies that constitute an ALE) is responsible for its own reporting obligations. For purposes of the information reporting requirements under Section 6056, each ALE member must file an information return with the IRS and furnish a statement to its full-time employees, using its own employer identification number (EIN).

## *ALEs That Sponsor Self-Insured Plans*

ALEs that sponsor self-insured group health plans also are required to report information under Section 6055 about the health coverage they provide. The IRS and individuals will use the information provided under Section 6055 to administer the ACA's individual mandate. These ALEs file with the IRS and furnish to employees the information required under both Sections 6055 and 6056 on a single form, using a combined reporting method. This combined reporting method is described in more detail below.

## *Multiemployer Plans*

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; and
- 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.

This approach is optional. Section 6056 applies the reporting and furnishing requirements only to the employer, and not to the relevant plan in which the employee participates. Although multiemployer plan administrators may prepare and submit returns for certain employees of an ALE, the employer would remain the responsible person under Section 6056 with respect to all of its full-time employees, and would be subject to any potential liability for failure to properly file returns or furnish statements. To the extent the plan administrator that prepares returns or statements required under Section 6056 is a tax return preparer, it is subject to the requirements generally applicable to return preparers.

The regulations also require that there be:

- A single identified Section 6056 transmittal (Form 1094-C) reporting aggregate employer-level data for all full-time employees of the ALE (including those for whom reporting was done by a multiemployer plan); and
- Only one Section 6056 employee statement (Form 1095-C) for each full-time employee of the ALE with respect to the employee's employment with the ALE.

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## *Designating Third Parties to File and Furnish on Behalf of an ALE*

Reporting arrangements between ALEs, issuers and other parties are not prohibited. Thus, ALEs can use third parties to facilitate filing returns and furnishing employers statements. However, this does not transfer the ALE's potential liability under the employer shared responsibility rules, or the potential liability for failure to file returns and furnish statements under Section 6056 (except in the case of a related entity properly designated by a governmental unit). If a person who prepares returns or statements required under Section 6056 is a tax return preparer, that person will be subject to the requirements generally applicable to tax return preparers.

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 behalf, as long as the designation meets certain criteria. The designated person, called a Designated Government Entity (DGE), must be a person or persons that are part of (or related to) the governmental unit ALE. In this case, the DGE is responsible for providing the information, and is liable for penalties for failure to comply.

## *Excluded Employers*

Employers that are not subject to the ACA's employer shared responsibility rules are not required to report under Section 6056. Thus, employers that employed fewer than 50 full-time employees (including FTEs) during the prior year are not subject to the reporting requirements. However, any employer that sponsors a self-insured health plan is required to report under Section 6055, even if the employer has fewer than 50 full-time employees.

## **Information Required to Be Reported**

Each ALE is required to report information about the health coverage, if any, offered to its full-time employees (and their dependents), **including whether an offer of health coverage was (or was not) made**. This requirement applies to all ALEs, regardless of whether they offered health coverage to all, none or some of their full-time employees. For each full-time employee, regardless of whether health coverage was offered to the employee, the ALE is required to file a return with the IRS and furnish a statement to the employee reporting:

- Whether an offer of health coverage was or was not made to the employee; and
- If an offer was made, the required information about the offer.

Therefore, even if an ALE does not offer coverage to any full-time employees, it must file returns with the IRS and furnish statements to each of its full-time employees to report information specifying that coverage was not offered.

An ALE is *not required* to file a Form 1095-C for an individual who, for all months of a calendar year, is either **not an employee of the ALE** or is in a **limited non-assessment period** (for example, an employee who was hired mid-year and then was in an initial measurement period that continued into the following year). However, for the months in which the employee was an employee of the ALE, he or she would be included in the total employee count reported on Form 1094-C. Also, if the employee enrolled in self-insured employer-sponsored coverage during the limited non-assessment period, the employer must file a Form 1095-C for the employee in order to report coverage information for the year.

An employer makes an offer of coverage to an employee if it provides the employee an effective opportunity to enroll in the health coverage (or to decline that coverage) **at least once for each plan year**. This includes cases where the employer continues the employee's election of coverage from a prior year, but provides the employee an effective opportunity to opt out of the health coverage. If an employer does not provide the employee an effective opportunity to decline the coverage, the employer is treated as having made an offer of health coverage to the employee only if that health coverage provides minimum value and does not require an employee contribution for any calendar month of more than 9.5 percent of the mainland federal poverty line for a single individual.

An offer of health coverage for a month must provide coverage for every day of that calendar month. However, if an employee terminates employment before the last day of a calendar month and the health coverage offer ends on the date of termination, the employer is treated as having offered the employee health coverage for the month only if the

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employee would have been offered health coverage for the entire month, had the employee been employed for the entire month.

For purposes of reporting under Section 6056, the term “dependent” is defined as an employee’s child, including a child who has been legally adopted or legally placed for adoption with the employee, who has not reached age 26. A dependent does not include stepchildren, foster children or a child that does not reside in the United States (or a country contiguous to the United States) and who is not a United States citizen or national. A dependent also does not include a spouse. In addition, for this purpose, an offer of coverage is treated as made to an employee’s dependents only if the offer of coverage is made to **an unlimited number of dependents**, regardless of the actual number of dependents, if any, an employee has during any particular calendar month.

An offer to a spouse includes an offer that is subject to a reasonable, objective condition, regardless of whether the spouse meets the condition. For example, an offer of coverage that is available to a spouse only if the spouse certifies that he or she does not have access to health coverage from another employer is treated as an offer of coverage to the spouse for reporting purposes. However, this treatment is for reporting purposes only, and generally will not affect the spouse’s eligibility for the premium tax credit if the spouse did not meet the condition, and therefore did not have an actual offer of coverage.

## *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;
- A certification of 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 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 (including country code) and Social Security number (SSN) or other 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.

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.

Each ALE will also have to report the name, address and EIN of any third party reporting on behalf of the ALE and whether the ALE is a member of an Aggregated ALE Group. The final regulations do not require employers to report whether they expect to be an ALE the following year.

Some of the information will be provided through the use of **indicator codes**, rather than detailed explanations or summaries. If multiple codes apply with respect to a full-time employee for a particular calendar month, the reporting format will accommodate the necessary codes.

## *Employee Statement*

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Under the general method, an ALE generally must furnish to each full-time employee a written statement showing:

- The ALE's name, address and EIN; and
- The information required to be shown on the Section 6056 return with respect to the full-time employee (and his or her spouse and dependents).

Employee statements may truncate the TIN or SSN of an employee (or any family member of the employee receiving coverage) on any statements furnished to employees, by showing only the last four digits of the TIN or SSN and replacing the first five digits with asterisks or Xs. Truncation is not allowed on forms filed with the IRS. In addition, an EIN may not be truncated on the forms filed with the IRS.

## **Methods of Reporting**

The final rule provides:

- **A general method** that all ALEs may use for filing forms with the IRS and furnishing statements to full-time employees; and
- **Alternative reporting methods** for eligible ALEs.

If an ALE cannot use an alternative reporting method for certain employees, the ALE must use the general method for those employees. In any case, the alternative reporting methods are optional, so that an employer may choose to report for all of its full-time employees using the general method even if an alternative reporting method is available.

In an effort to simplify the Section 6056 reporting process, certain information required to be reported to the IRS and furnished to full-time employees may be reported through the use of **indicator codes**, rather than by providing more detailed information. More details about the reporting process is available in the reporting forms and instructions.

## *General Reporting Method*

As a general method, each ALE may satisfy the requirement to file a Section 6056 return with the IRS by filing:

- A transmittal on **Form 1094-C** for all of the returns filed for a given calendar year; and
- A separate employee statement on **Form 1095-C** for each full-time employee.

Substitute forms may be used, as long as they include all of the required information and comply with IRS procedures or other applicable guidance. On Feb. 8, 2015, the IRS released **final versions** of Forms [1094-C](#) and [1095-C](#), along with related [instructions](#). These are **2014 versions only**, and are not required to be filed for 2014. However, reporting entities may voluntarily file them in 2015 for 2014 coverage. Forms and instructions for 2015 reporting have not yet been released, and may contain some changes from these 2014 versions.

An ALE that maintains a self-insured plan also uses **Form 1095-C** to satisfy the reporting requirements under Section 6055. The Form 1095-C has separate sections to allow ALEs that sponsor self-insured plans to combine reporting to satisfy both the Section 6055 and 6056 reporting requirements, as applicable, on a single return. More information on combined reporting is available in the "Combined Reporting" section below.

Generally, each ALE must file separate Section 6056 returns providing that ALE's EIN. There must be only:

- **One Section 6056 Authoritative Transmittal** (Form 1094-C) reporting aggregate employer-level data for all full-time employees of the ALE; and
- **One Section 6056 employee statement** (Form 1095-C) for each full-time employee with respect to employment with that ALE.

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## **AUTHORITATIVE TRANSMITTAL**

**A separate Section 6056 transmittal (Form 1094-C) must be filed with any Forms 1095-C filed by each ALE.** An ALE may choose to file multiple Forms 1094-C, each accompanied by Forms 1095-C, for some of its employees, provided that a Form 1095-C is filed for each employee for whom the ALE is required to file. However, if more than one Section 6056 transmittal is filed for an ALE, one of those Form 1094-C transmittals must be an **Authoritative Transmittal** reporting aggregate employer-level data for all full-time employees. The form must be identified, on line 19 of Part II, as the Authoritative Transmittal.

One Authoritative Transmittal must be filed for each ALE, even if multiple Forms 1094-C are filed by and on behalf of the ALE. For example, if an employer has prepared a separate Form 1094-C for each of its two divisions to transmit Forms 1095-C for each division's full-time employees, one of the Forms 1094-C filed must be designated as the Authoritative Transmittal and report aggregate employer-level data for all full-time employees (for both divisions).

In the case of an Aggregated ALE Group, each separate ALE Member must file its own Authoritative Transmittal. Similarly, in the case of a governmental unit that has delegated its reporting responsibilities for some of its employees to a DGE, one Authoritative Transmittal must still be filed for that governmental unit reporting aggregate employer-level data for all employees of the governmental unit (including those for whom the governmental unit has delegated its reporting responsibilities).

## **ONE FORM 1095-C PER FULL-TIME EMPLOYEE**

Also, **there must be only one Section 6056 employee statement (Form 1095-C) for each full-time employee** with respect to that full-time employee's employment with the ALE, so that all information for a particular full-time employee of the ALE is reflected on a single Form 1095-C. For example, if an ALE separately reports for the full-time employees of its two divisions, the ALE must combine the information for any employee who worked at both divisions during the year, so that a single Form 1095-C is filed for that employee which reports information for all 12 months of the calendar year from that employer.

However, a full-time employee who works for more than one ALE that is a member of the same Aggregated ALE Group (that is, works for two separate ALE members) must receive a separate Form 1095-C from each ALE member, unless the ALE member is not treated as the employer for any month in the calendar year.

The Section 6056 **employee statement** may be made by furnishing:

- A copy of 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 (Form 1094-C).

### *Alternative Methods*

The final rule provides two alternative methods of reporting under Section 6056 that are intended to minimize the cost and administrative tasks for employers. In certain situations, the alternative reporting methods may allow employers to provide **less detailed information** than under the general method. The two alternative reporting methods are:

- Reporting Based on Certification of Qualifying Offers (the Qualifying Offer Method); and
- Option to Report Without Separate Identification of Full-Time Employees if Certain Conditions Related to Offers of Coverage Are Satisfied (the 98 Percent Offer Method).

In addition, transition relief is available under the Qualifying Offer Method for 2015. Each of these alternative methods of reporting are described in greater detail below.

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The information provided to the IRS and the employee under Section 6056 is important for administering the ACA's employer shared responsibility rules and the premium tax credit. However, in some circumstances, only some of the information required under the general method is necessary. Accordingly, the alternative reporting methods identify specific groups of employees for whom simplified alternative reporting would provide sufficient information.

If an ALE is not eligible to use an alternative method of reporting with respect to one or more full-time employees, the ALE **must use the general method of reporting** for those employees. In addition, the alternative methods of reporting are all optional. An employer is not required to use any alternative reporting method, even if it is eligible, and may instead report the more detailed information under the general method of reporting.

## 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.

Note that, although the employer shared responsibility rules only require ALEs to offer coverage to dependent children (not spouses), ALEs must offer coverage to a full-time employee's spouse and dependent children in order to use the Qualifying Offer Method of reporting under Section 6056. Also, 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:

1. **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, SSN and address, and indicating (using the Qualifying Offer code 1A) that a qualifying offer was made for all 12 months of the calendar year. The ALE also will not report the dollar amount for any month for the employee's share of the lowest cost monthly premium for self-only coverage providing minimum value offered to that employee. *An employer may not, for any month, use code 1A and also report this dollar amount.*
2. **Provide a simplified employee statement in lieu of a copy of the Form 1095-C** to each full-time employee who received a qualifying offer for all 12 months. This statement must include the employer's name, address and EIN, and must inform the employee that the employee (and his or her 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. In addition, this statement must direct the employee to see [IRS Publication 974, Premium Tax Credit \(PTC\)](#) (currently in draft form), for more information on eligibility for the premium tax credit.

However, an employer may not provide a simplified employee statement in lieu of a copy of the Form 1095-C for any full-time employee who enrolled in self-insured coverage, regardless of whether the employee received a qualifying offer for all 12 months. The employer must furnish the information reporting enrollment in the self-insured coverage reported on Form 1095-C, Part III. For these employees, the employer may furnish a copy of Form 1095-C as filed with the IRS (with or without the statement described above).

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 code 1A to report for months in which a qualifying offer was received.

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## QUALIFYING OFFER METHOD TRANSITION RELIEF FOR 2015

The final rule also includes transition relief in 2015 for ALEs that certify on the transmittal that they have made a qualifying offer to **at least 95 percent of their full-time employees** (and their spouses and dependents).

Generally, employers will have to use the general method of reporting for any employees that did not receive a qualifying offer for all 12 months. However, solely for 2015, ALEs that have made a qualifying offer to at least 95 percent of their full-time employees (and their spouses and dependents) will be treated as complying with Section 6056 if they take the two simplified steps listed above. However, in this case, employers will use either:

- The **Qualifying Offer code 1A** for any months for which the employee received a qualifying offer; or
- The **Qualifying Offer Method Transition Relief code 1I** for any months for which the employee did not receive a qualifying offer.

*An employer may not, for any month, use code 1A or code 1I and also report the dollar amount for the employee's share of the lowest cost monthly premium for self-only coverage providing minimum value.*

In addition, the simplified employee statement will vary based 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, the statement will inform the employee that the employee (and his or her spouse and dependents) 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.

## 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; and
- **Offered MEC to those employees' dependents.**

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. Under this alternative method, the employer does not have to provide its full-time employee count on Form 1094-C.

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 not offered coverage.

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## Reporting for Medium-sized ALEs

The employer shared responsibility [final regulations](#) included 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 described below.

### REPORTING FOR MEDIUM-SIZED ALES

As part of the transition relief from the employer shared responsibility rules for medium-sized ALEs, the ALE must certify by checking a box on its Section 6056 transmittal form (Form 1094-C) 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).

The IRS noted that the delay for medium-sized ALEs is solely for the employer for purposes of the employer shared responsibility rules, and does not affect the employee's potential eligibility for the premium tax credit. Accordingly, **regardless of whether the employer is eligible for this delay, the Form 1095-C for each full-time employee must accurately reflect the health coverage offered to that employee (if any) during that period, including, if applicable, the required employee contribution.**

Thus, reporting for medium-sized ALEs is *not* a simplified method of reporting.

### Combined Reporting

The final rules under Sections 6055 and 6056 provide for combined reporting for employers that are subject to both reporting provisions (generally, ALEs that sponsor self-insured group health plans). To allow these ALEs to satisfy both reporting requirements on a single return, **Form 1095-C** has separate sections for reporting under Section 6055 and for reporting under Section 6056.

More information on combined reporting is available in the "Combined Reporting" section below.

### 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.

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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 IRS released a [final rule](#) on the Section 6055 reporting requirements. This rule finalizes [proposed regulations](#) issued on Sept. 5, 2013. In addition, on Feb. 8, 2015, the IRS released final versions of the following forms, along with related [instructions](#), that employers will use to report under Section 6055:

- [Form 1094-B](#), Transmittal of Health Coverage Information Returns; and
- [Form 1095-B](#), Health Coverage.

[Q&As on Section 6055](#) were also released in August 2014. These forms and instructions are **2014 versions** that may be used for filing in 2015 related to 2014 coverage. **These forms are not required to be filed for 2014**, but reporting entities may voluntarily file them in 2015 for 2014 coverage. Forms and instructions for 2015 reporting have not yet been released, and may contain some changes from these 2014 versions.

## **Minimum Essential Coverage**

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. MEC includes the following:

- Eligible employer-sponsored coverage, including self-insured plans, COBRA coverage and retiree coverage;
- Coverage purchased in the individual market (including a qualified health plan offered by an Exchange);
- Medicare Part A coverage and Medicare Advantage plans;
- Most Medicaid coverage;
- Children's Health Insurance Program (CHIP) coverage;
- Certain types of veterans health coverage administered by the Veterans Administration;
- Most types of TRICARE coverage;
- Coverage provided to Peace Corps volunteers;
- Coverage under the Nonappropriated Fund Health Benefit Program;
- Refugee Medical Assistance supported by the Administration for Children and Families;
- Self-funded health coverage offered to students by universities for plan or policy years that begin on or before Dec. 31, 2014 (for later years, sponsors of these programs may apply to HHS to be recognized as MEC);
- State high-risk pools for plan or policy years that begin on or before Dec. 31, 2014 (for later years, sponsors of these program may apply to HHS to be recognized as MEC); and
- Other coverage recognized by HHS as MEC.

Section 6055 reporting is not required for coverage that is not MEC. This includes coverage that qualifies as "excepted benefits," such as stand-alone vision care or dental care, workers' compensation and accident or disability policies. 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. Note that health flexible spending accounts (health FSAs) must satisfy certain requirements to qualify as excepted benefits. Beginning in 2014, health FSAs that do not qualify as excepted benefits will generally be prohibited under the ACA.

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In addition, Section 6055 reporting is not required for arrangements that provide benefits in addition or as a supplement to MEC. The final regulations clarify that MEC is considered “supplemental coverage” not subject to reporting if it supplements:

- A primary plan of the same plan sponsor; or
- Government-sponsored coverage (such as Medicare).

Health reimbursement arrangements (HRAs) are considered supplemental coverage to which this rule may apply. Similarly, 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.

## **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	Other entities that provide MEC

To ensure complete and accurate reporting, Section 6055 reporting is required for **all covered individuals**. Reporting entities may 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 related governmental unit, agency or instrumentality as the person responsible for Section 6055 reporting, called a designated government entity (DGE).

### *Health Insurance Issuers*

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 QHP coverage through an individual 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 Exchanges will not be reporting information on these plans.

### *Self-insured Plan Sponsors*

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 a plan established or maintained by a single employer.
- 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.

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TYPE OF COVERAGE	PLAN SPONSOR
A self-insured group health plan maintained by a single employer	The employer
A plan maintained by more than one employer that is not a multiemployer plan (as defined in ERISA)	Each participating employer
A multiemployer plan (as defined in ERISA)	The association, committee, joint board of trustees or other group of representatives of the parties who establish or maintain the plan
A plan maintained solely by an employee organization	The employee organization
Any plan for which a plan sponsor is not identified above	The person designated by plan terms or, if no person is designated, each entity that maintains the plan

For purposes of identifying the employer, **the Code 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.

Most employers that sponsor self-insured group health plans are 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.

### *Government-sponsored Programs*

Governmental units that provide coverage under a government-sponsored program must also report under Section 6055. For a government-sponsored program, the entity responsible for reporting under Section 6055 is as follows:

TYPE OF COVERAGE	WHO MUST REPORT
Medicaid and CHIP coverage	The state agency that administers the program
Medicare, TRICARE, benefits administered by the Department of Veterans Affairs and benefits for Peace Corps volunteers	The executive department or agency of the governmental unit that provides the coverage
Health insurance coverage under a government-sponsored program (such as Medicaid, CHIP or Medicare) obtained through an issuer	The executive department or agency of the governmental unit that provides the coverage (and not the issuer)
The Nonappropriated Fund Health Benefits Program	The Secretary of Defense may designate the Department of Defense components that must report

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# Employer Reporting of Health Coverage—Code Sections 6055 & 6056

## **Required Filings**

In general, a reporting entity that is reporting under Section 6055 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 using **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. On Feb. 8, 2015, the IRS released **final versions** of Forms [1094-B](#) and [1095-B](#). These are **2014 versions only**, and are not required to be filed for 2014. However, reporting entities may voluntarily file them in 2015 for 2014 coverage. Forms and instructions for 2015 reporting have not yet been released, and may contain some changes from these 2014 versions.

However, a reporting entity that is reporting under Section 6055 as an ALE will file under a combined reporting method, using **Form 1094-C** and **Form 1095-C**, or other form designated by the IRS. As part of this combined reporting method, Form 1095-C will be used by ALEs to satisfy the Section 6055 and 6056 reporting requirements, as applicable. . On Feb. 8, 2015, the IRS released **final versions** of Forms [1094-C](#) and [1095-C](#), along with related [instructions](#). These are **2014 versions only**, and are not required to be filed for 2014. However, reporting entities may voluntarily file them in 2015 for 2014 coverage. Forms and instructions for 2015 reporting have not yet been released, and may contain some changes from these 2014 versions.

Written statements must also be provided to each responsible individual identified on the IRS return. A “**responsible individual**” includes a primary insured, employee, former employee, uniformed services sponsor, parent or other related person named on an application who enrolls one or more individuals (including him or herself) in MEC.

Statements are not required to be provided to any other individual who is not the responsible individual. Individual statements may be made by furnishing to the responsible individual a copy of the IRS return (or a substitute statement that includes the required information).

## **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;
- 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.

The individual statement must show:

- The phone number for the reporting entity’s designated 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.

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## 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.**

Under this combined reporting method, 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.

### **Reporting for Nonemployees Enrolled in Self-insured Coverage**

The final instructions for Forms 1094-C and 1095-C include a new option for ALEs reporting information for nonemployees (such as nonemployee directors, retirees or nonemployee COBRA beneficiaries). This new option allows employers to report employer-sponsored self-insured health coverage for nonemployees (and their family members) using either Forms 1094-B and 1095-B or Form 1095-C, Part III.

This option applies only for ALEs offering self-insured health coverage for any individual who enrolled in the coverage for one or more calendar months of the year, but was not an employee for any calendar month of the year, such as:

- A nonemployee director;
- A retired employee who retired in a previous year;
- A terminated employee receiving COBRA coverage who terminated employment during a previous year; and
- A nonemployee COBRA beneficiary.

A nonemployee does *not* include an individual who obtained coverage through the employee's enrollment, such as a spouse or dependent obtaining coverage when an employee elects family coverage.

Under this new option, ALEs may report enrollment for these individuals using either:

- Forms 1094-B and 1095-B; or
- Form 1095-C, Part III.

If the Form 1095-C is used with respect to an individual who was not an employee for any month of the calendar year, Part II must also be completed by using Code 1G on Line 14 in the "All 12 Months" box (or the box for each month of the calendar year).

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In the case of a nonemployee who enrolls in the coverage under a self-insured health plan, all family members who are covered individuals due to the individual's enrollment must be included on the same Form 1095-B or Form 1095-C as the individual who is offered, and enrolls in, the coverage.

## **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 (under Code Section 6721); and
- Failure to furnish correct payee statements (under Code Section 6722).

The penalty is generally **\$100 for each return**, up to \$1,500,000 per calendar year. However, penalties may be waived if the failure is due to reasonable cause and not to willful neglect.

In addition, if the reporting entity corrects the failure within 30 days after the required filing date, the penalty will be reduced to \$30 for each return, up to a maximum of \$250,000 per calendar year. Likewise, if the reporting entity corrects the failure more than 30 days after the required filing date, but before Aug. 1 of that year, the penalty will be reduced to \$60 for each return, up to \$500,000 per calendar year. Lower annual penalty limits may apply for reporting entities with average annual gross receipts of up to \$5,000,000 for the most recent 3 taxable years.

However, failures due to intentional disregard of the filing requirement (or the correct information reporting requirement) will have no penalty reduction, and the penalty will be equal to \$250 (or, if greater, 10 percent of the aggregate amount of the items required to be reported correctly).

### ***Short-term Relief from Penalties***

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.

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