



New information reporting requirements under the Affordable Care Act

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The Affordable Care Act (ACA) imposes significant information reporting responsibilities on employers starting with the 2015 calendar year. Although reporting for 2014 was not required, the IRS issued 2014 forms and instructions that will be finalized for 2015 later this year.

Information returns

The new information reporting system is similar to the current Form W-2 reporting system in that an information return (Form 1095-B or 1095-C) will be prepared for each applicable employee, and these returns will be filed with the IRS using a single transmittal form (Form 1094-B or 1094-C). Electronic filing is required if the employer files at least 250 returns. Employers must file these returns annually by Feb. 28 (March 31 if filed electronically). Therefore, employers will be filing these forms for the 2015 calendar year by Feb. 28 or March 31, 2016. A copy of the Form 1095, or a substitute statement, must be given to the employee by Jan. 31 and can be provided electronically with the employee's consent. Employers will be subject to penalties of up to \$500 per return for failing to timely file the returns or furnish statements to employees.

The filing requirements are based on an employer's health plan and number of employees. Form [1095-B](#) (Health Coverage) and Form [1094-B](#) (Transmittal of Health Coverage Information Returns) will be filed by insurance companies to report individuals covered by insured employer-sponsored group health plans. Small employers with self-insured health plans will also use Form 1095-B and Form 1094-B to report the name, address and Social Security number (or date of birth) of employees and their family members who have coverage under the self-insured plan. Employees who are offered coverage, but decline the coverage, are not reported.

Form [1095-C](#) (Employer-Provided Health Insurance Offer and Coverage) and Form [1094-C](#) (Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns) will be filed by applicable large employers. These forms will be required if the employer offers an insured or self-insured health plan, or does not offer any group health plan.

Applicable large employers are those that had, on average, at least 50 full-time employees (including full-time equivalent employees) during the preceding calendar year. Full-time employees are those who work, on average, at least 30 hours per week.

Small employers with fewer than 50 full-time employees (including equivalents) will be required to file Forms 1095-C and 1094-C if they are members of a controlled or affiliated service group that collectively has at least 50 full-time employees (including equivalents). Companies could be in a controlled or affiliated service group if they have common owners, provide services for each other or work together to provide services to third parties.

Example: Smith and Jones each own 50 percent of Company A and Company B. Because of this ownership, A and B are a controlled group, and the filing requirements for A and B are based on the number of employees that they have collectively. If A and B together had at least 50 full-time employees (including equivalents) in the prior calendar year, then A and B are each a member of an "applicable large employer group" for the current year, and both A and B would be required to file the forms. Thus, if A had 35 full-time employees in the prior calendar year and B had 30, A and B would each be a member of an applicable large employer group with 65 employees, and both would have to file Forms 1095-C and 1094-C. If A had 35 full-time employees and B had only 10, then A and B would not be members of an applicable large employer group since, collectively, they only had 45 employees (which is less than the 50-employee threshold). In that case, neither A nor B would file Forms 1095-C and 1094-C.

The following chart summarizes the filing requirements based on the size of the employer and its member status in an applicable large employer group (ALEG). For purposes of this chart, a small employer is one with less than 50 full-time employees (including equivalents) and a large employer is one with at least 50 full-time employees (including equivalents) during the preceding calendar year. The column titled "ALEG Member" denotes whether the employer was in a controlled or affiliated service group that collectively had at least 50 full-time employees (including equivalents) during the preceding calendar year.

Employer Size	ALEG Member	Employer Health Plan	Employer Files Forms 1095-B/1094-B	Employer Files Forms 1095-C/1094-C
Small employer	No	None	No	No
Small employer	No	Insured	No (insurer files forms)	No

Small employer	No	Self-insured	Yes	No
Small employer treated as large (see ALEG discussion)	Yes	None	No	Yes
Small employer treated as large (see ALEG discussion)	Yes	Insured	No (insurer files forms)	Yes
Small employer treated as large (see ALEG discussion)	Yes	Self-insured	Generally, no*	Yes
Large employer	N/A	None	No	Yes
Large employer	N/A	Insured	No (insurer files forms)	Yes
Large employer	N/A	Self-insured	Generally, no*	Yes

*Employers with non-employees enrolled in their self-insured health plans, such as directors, retirees and individuals on COBRA, can elect to report these non-employees on Forms 1095-B and 1094-B instead of Forms 1095-C and 1094-C.

Use of Information

The IRS will use the information submitted on the forms to determine whether employees are subject to the new shared responsibility penalty for not having health coverage or are eligible for premium tax credits on insurance purchased through the health insurance marketplace. The information will also allow the IRS to determine if an employer is liable for a shared responsibility penalty.

The employer shared responsibility penalty can be imposed on any applicable large employer group member that does not offer affordable, minimum value health coverage to all of its full-time employees. Health coverage is affordable if the amount that the employer charges an employee for self-only coverage does not exceed 9.5 percent of the employee's Form W-2 wages, rate of pay, or the federal poverty level for the year. A health plan provides minimum value if the plan is designed to pay at least 60 percent of the total cost of medical services for a standard population. In the case of a controlled or affiliated service group, the penalties apply to each member of the group individually.

Form 1095-C and Form 1094-C

Applicable large employer group members must prepare a Form 1095-C for each full-time employee regardless of whether the employee is participating in an employer-sponsored group health plan. In addition, the employer will complete a Form 1095-C for each non-full-time employee who is enrolled in the employer's self-insured health plan. The employer will not prepare Form 1095-C for non-full-time employees who are not enrolled in the plan.

Form 1095-C will report the following information to the IRS:

- The employee's name, address and Social Security number
- The employer's name, address and employer identification number
- Whether the employee and family members were offered health coverage each month that met the minimum value standard
- The employee's share of the monthly premium for the lowest-cost minimum value health coverage offered
- Whether the employee was a full-time employee each month
- The affordability safe harbor applicable for the employee
- Whether the employee was enrolled in the health plan
- If the health plan was self-insured, the name and Social Security number (or birth date if the Social Security number is unavailable) of each employee and family member covered by the plan by month

An applicable large employer group member will file Form 1094-C to transmit its Forms 1095-C to the IRS. The Form 1094-C will report the following information:

- The employer's name, address, employer identification number and contact person
- The total number of Forms 1095-C filed
- A certification by month as to whether the employer offered its full-time employees (and their dependents) the opportunity to enroll in minimum essential health coverage
- The number of full-time employees for each month of the calendar year
- The total number of employees for each month

- Whether special rules or transition relief applies to the employer
- The names and employer identification numbers of other employers that are in a controlled group or affiliated service group with the employer

Members of an applicable large employer group that has fewer than 100 full-time employees (including equivalents) are generally eligible for transition relief from the employer shared responsibility penalty for their 2015 plan year. Nonetheless, these employers are required to file Forms 1095-C and 1094-C for the 2015 calendar year.

As noted above, each applicable large employer group member is required to file Forms 1095-C and 1094-C for its own employees, even if it participates in a health plan with other employers (e.g., when the parent company sponsors a plan in which all subsidiaries participate). Special rules apply to governmental entities and to multi-employer plans for collectively-bargained employees.

Action required

In light of the complexity of the new information reporting requirements, employers should take the following actions:

- Learn about the new information reporting requirements by reading [Publication 5196](#) and the IRS answers to [questions](#) about the Forms 1094-C and 1095-C.
- Review ownership structures of related companies and perform a controlled/affiliated service group analysis to determine applicable large employer group members
- Discuss the reporting requirements with the health plan's insurer or third-party administrator and the company's payroll vendor to identify the parties responsible for data collection and form preparation
- Review the [instructions](#) for Forms 1094-C and 1095-C and, if applicable, the [instructions](#) for Forms 1094-B and 1095-B, along with the forms
- Develop procedures for determining and documenting each employee's full-time or non-full-time status by month
- Develop procedures to collect information about offers of health coverage and health plan enrollment by month
- Ensure that systems are in place during 2015 to collect the needed data for the forms

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