

Preparing to file ACA-required forms in 2015 – What you need to know

This year, for the first time, employers that offer health coverage are subject to the requirements under the Patient Protection and Affordable Care Act (ACA) (P.L. 111-148) to report certain information about the health coverage they offered to their employees during 2015. Information reporting was merely voluntary for calendar year 2014. For 2015, all applicable large employers must report health coverage information on Forms 1095-C, Employer-Provided Health Insurance Offer and Coverage, and 1094-C, Transmittal of Employer- Provided Health Insurance Offer and Coverage Information Returns. Forms 1095-B, Health Coverage, and 1094-B, Transmittal of Health Coverage Information Returns will generally be used by employers other than the applicable large employers and insurers to report minimum essential coverage. Employers subject to these reporting requirements must complete these forms, or face stiff penalties.

Who has to file?

Small vs. large employers. Small employers who are not subject to the requirement to either offer affordable minimum essential coverage or make the employer shared responsibility payment, but who nonetheless offer health coverage will report such coverage on Forms 1095-B and 1094-B. Applicable large employers who offer self-insured group health plans, on the other hand, will generally report the information on offers of insurance and the coverage to full-time employees on Form 1095-C, Part III. Large self-insured employers who also offer coverage to employees who were not full-time employees for all 12 months of the year may report such coverage on Form 1095-B instead of Form 1095-C. If the employer, no matter whether a large or small employer, offers fully insured coverage, the B-Series forms will always be utilized but the health insurer will complete the forms and submit them to the IRS.

Why do employers have to file?

Employers are required by the ACA to provide the IRS this information so that the IRS can use the information provided on Form 1095-C (or Form 1095-B) to determine whether the employer offered health coverage that meets the requirements of the ACA. An employer that does not meet these coverage requirements must generally make the employer shared responsibility payment as required by Internal Revenue Code secs.4980H(a) or (b).

In addition, individuals are required by the ACA to obtain affordable health coverage either through an employer, a health insurance exchange or another sponsor. Those who do not obtain health coverage may be subject to the individual shared responsibility payment. Individuals who do not receive an offer of affordable minimum coverage from their employer and who obtain coverage through an exchange may be eligible for a premium tax credit to offset the cost of coverage.

Because the information provided on Forms 1095-C and 1095-B provides the basis for the IRS's implementation of the ACA, the IRS imposes potentially substantial penalties on employers who are required to file them and fail to do so. The penalty for failure to file an information return generally is \$250 for each required return not filed (the total penalty amount is capped at \$3,000,000).

For 2015 reporting, the IRS will not impose penalties on a filer for reporting incorrect or incomplete information if the filer can show that it made good faith efforts to comply with the reporting requirements.

What are the required Forms?

Form 1094-C. A Form 1094-C is a transmittal form that must be filed when an employer files one or more Forms 1095-C. The form requires the filer to provide identifying information on the organization offering coverage and to report whether the filer offered coverage to at least 70 percent of its full-time employees and their dependents during 2015. This lower 70-percent threshold is effective only for 2015. After 2015, the threshold increases to 95 percent of full-time employees.

The filer must also provide the total number of Forms 1095-C issued to employees; the total number of full-time employees the employer had each month; whether the employer is a member of an aggregated applicable large employer group, and whether the employer is eligible for certain transition relief from the IRC sec. 4980H employer shared responsibility payment.

Form 1095-C. Applicable large employers (ALEs)—those who had 50 or more full-time equivalent employees on average during a consecutive six-month period during 2014—must provide the following information on Form 1095-C:

- Identifying information for employer and employee such as name, address, Social Security Number, Employer Identification Number (Part I);
- The months for which health coverage was offered (Part II, Line 14);
- The employee's share of the monthly premium for lowest-cost self-only minimum value coverage (Part II, Line 15);
- The months, if any, for which the employer met the requirements for relief from the IRC sec. 4980H employer shared responsibility requirements; and
- The months for which the employee was enrolled in coverage (Part III—to be completed only by employers that offer coverage through employer-sponsored self-insured health plans).

Form 1094-B. A Form 1094-B is the B-Series transmittal form that must be filed when the health insurer files one or more Forms 1095-B. The form requires the filer to provide identifying information on the employer offering coverage and the insurer providing the coverage, including the total number of Forms 1095-B issued to employees.

Form 1095-B. Small Employers and insurers of fully insured plans will provide the IRS and each employee a copy of the 1095-B, which reports the employer information, the insurer information and must provide the following information on Form 1095-B:

- Identifying information for employer and employee such as name, address, Social Security Number, Employer Identification Number (Part I);
- Identifying information for the insurer if the plan is fully insured
- The months for which the employee and any applicable dependents were enrolled in coverage.

After ALEs report 2015 coverage in 2016 (with ALE status based on the number of full-time equivalent employees they had during 2014), ALE status will be determined by the average number of full-time equivalent employees an employer had for the whole 12 calendar month period preceding the year for which health coverage must be reported. The temporary transition relief available for determining ALE status for 2015 enabled some employers to escape ALE status by choosing the six-month period of 2014 most favorable to them.

What else do I need to know about these forms?

Social Security numbers. To properly implement the ACA provisions, the IRS must be able to match the Form 1095-C and B against the individual's tax return with its corresponding income information. Consequently SSNs (or Taxpayer Identification Numbers if there is no SSN) are required on all Forms 1095-C and B, and employers are required by the regulations to make reasonable efforts to obtain them. This is especially important for self-insured employers who may not have previously obtained the SSNs for all their employees' dependents covered under their plans.

Plan year v. tax year. If an ALE has a health coverage plan year that is not based on the calendar year starting with January (for example, the renewal date begins in October), the ALE is still required to report coverage information for all 12 months of 2015. The information provided will be pulled from multiple plan years. The IRS recently revised Form 1095-C to include an optional box in Part II in which form filers may indicate the first month of the plan year. The IRS has stated that it anticipates the box will be mandatory in future years.

Self-insured employers. An employer that offers health coverage through an employer-sponsored self-insured health plan must complete Form 1095-C, Parts I, II, and III, for any employee who enrolls in the health coverage. This requirement applies regardless of whether or not the employee is a full-time employee for any month of the calendar year. However, self-insured employers who offer coverage to employees that were not full-time employees for all 12 months of 2015 have the option of reporting such coverage on Form 1095-B instead.

If the employee who enrolled in self-insured coverage was not a full-time employee for all 12 calendar months of 2015, the employer must complete Form 1095-C, Parts I and III. On Part II, the employer must enter code "1G" on Line 14 in either the "All 12 Months" column or—if such coverage was not offered for all 12 months—then in each separate monthly box. Code 1G indicates that the employer made an offer of coverage to employee who was not a full-time employee for any month of the calendar year.

An employer that offers employer-sponsored self-insured health coverage, but is not an applicable large employer subject to the employer shared responsibility provisions under section 4980H, should not file Forms 1094-C and 1095-C, but should instead file Forms 1094-B and 1095-B to report information for employees who enrolled in the employer-sponsored self-insured health coverage.

Transition relief. For 2015, certain employers that are required to make an assessable payment under IRC sec. 4980H(a) or (b) because they either did not provide affordable health coverage to all their full-time employees or did not offer health coverage with minimum value, may be eligible for certain transition relief that can relieve the requirement to make a payment or reduce the payment amount (depending on the size of the employer). Such employers must report their eligibility for this transition relief on Form 1094-C, line 22, box C and then also report the applicable Section 4980H Safe Harbor code for relief under each employee on the 1095-C, Part II, Line 16.

For applicable large employers with 50 to 99 full-time equivalent employees, any penalty owed under IRC sec. 4980H(a) or (b) for the 2015 calendar year will be waived. (If the employer has a non-calendar-year plan, the penalty will not apply for the portion of the 2015 plan year that falls in 2016.) For applicable large employers with 100 or more full-time employees, for 2015, the IRS has increased the number of employees an employer may subtract from its total number of full-time equivalent employees for purposes of calculating the penalty under IRC sec. 4980H(a).

An employer eligible for transition relief from IRC sec. 4980H's requirements is still subject to the Forms 1094-C and 1095-C reporting requirements for 2015 with respect to its full-time employees.

Filing deadlines. Forms 1095-B and 1095-C are considered timely filed if they are properly addressed and mailed on or before the due date, which for the 2015 year falls on February 29, 2016 (for paper filers) or March 31, 2016, for employers filing electronically.

The employer has an earlier deadline for furnishing a copy of the Form 1095-C and the insurer the Form 1095-B to each of its full-time employees. The deadline is generally January 31 of the year following the year to which the Form 1095-C or B relates. In other words, for 2015 the first Forms 1095-C and B must be provided to individuals by February 1, 2016. An employer is required to obtain affirmative consent from the employee to furnish a statement electronically. Otherwise the statement must be provided on paper.
