

The Facts

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.

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.

OVERVIEW

TYPE OF REPORTING	AFFECTED EMPLOYERS	REQUIRED INFORMATION	EFFECTIVE DATE
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)	Delayed until 2015 The first returns will be due in 2016 for coverage provided in 2015
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)	

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 6056, entities will file Forms [1094-C](#) (a transmittal) and [1095-C](#) (an information return) for each full-time employee for any month.

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.

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.

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. On February 9, 2015 the IRS released final versions of the following forms 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.

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](#).

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. 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 a particular company or companies individually do 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).

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.

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 u

p 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).