



ACA Reporting Overview for Calendar Year 2018

Benefit Advisors Network

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Agenda



- Pay-or-Play Mandate
- ACA Reporting
 - Provider Reporting (Section 6055)
 - Employer Reporting (Section 6056)
 - Form Detail
 - Reporting for COBRA Participants
 - Simplified Reporting
- Common Questions
- Questions



Pay-or-Play Mandate

Pay-or-Play Mandate



- Applies to applicable large employers (ALEs)
- Company is an ALE if it employs, on average, 50 or more full-time equivalents (FTEs) in preceding year
 - ALE determined on a controlled group basis
- Employer mandate was generally effective January 1, 2015
 - Delayed until 2016 for most employers with 50 – 99 FTEs on average in 2014
 - ALEs were still required to complete ACA reporting for 2015

Pay-or-Play Mandate



Trump Administration:

- Tax Reform bill repealed Individual Mandate effective January 1, 2019
- Immediate changes to ACA reporting / Employer Mandate are unlikely
- Constitutionality of entire ACA being litigated in 2019
 - Stay the course for now

Pay-or-Play Mandate – \$2,000 Penalty



“No Offer” Penalty – Employers that do not offer coverage

- Employers that do not offer health coverage to at least 95% of all full-time employees (and their children under age 26) are subject to a penalty
- Annual penalty is \$2,000 (as indexed) × all full-time employees reduced by 30 if one or more full-time employees receive a federal premium subsidy
- Penalty is assessed monthly
- Assessment is entity-by-entity within a controlled group
- Also known as the “A” penalty (Code Section 4980H(a))

Pay-or-Play Mandate – \$3,000 Penalty



“Unaffordability” Penalty – Employers with “unaffordable” coverage

- Coverage is “affordable” if:
 - Employee’s cost for single coverage does not exceed 9.5% (as indexed) of household income (or W-2 wages or another permitted safe harbor), and
 - Plan provides “minimum value”
- Annual penalty is \$3,000 (as indexed) for each full-time employee who receives a federal premium subsidy, not to exceed the “no offer” penalty
- Penalty is assessed monthly
- Assessment is entity-by-entity within a controlled group
- Also known as the “B” penalty (Code Section 4980H(b))

What is Affordable Coverage?



Cost for employee-only coverage under lowest cost plan that provides minimum value cannot exceed 9.5% (as indexed) of:

- **W-2 (Box 1)**
 - Must wait to end of year to confirm
- **Rate of Pay** (monthly cost cannot exceed 9.5% of hourly rate of pay × 130)
 - E.G.: \$10 per hour—affordable if employee not charged more than \$128.18 per month in 2019 for employee-only coverage ($\$10 * 130 \text{ hours} * 9.86\%$)
- **Federal Poverty Level (FPL)**
 - For CY2019 plans, employee-only coverage is affordable under the FPL safe harbor if it does not exceed \$99.75 / month ($\$12,140 \div 12 * 9.86\%$)
 - For CY2018 plans, employee-only coverage is affordable under the FPL safe harbor if it does not exceed \$96.08 / month ($\$12,060 \div 12 * 9.56\%$)

Indexed Pay-or-Play Penalties



- Annual pay-or-play penalties are indexed to increase each calendar year after 2014

Year	Penalty
2014	\$2,000 / \$3,000
2015	\$2,080 / \$3,120
2016	\$2,160 / \$3,240
2017	\$2,260 / \$3,390
2018	\$2,320 / \$3,480
2019	\$2,500 / \$3,750 (est.)

- IRS has begun notifying employers of potential employer shared responsibility payments for the 2015 and 2016 calendar years



ACA Reporting

ACA Reporting Overview



Provider Reporting – Code Section 6055

- Used to enforce the Individual Mandate
- Applies to:
 - Insurance Companies
 - Employers with Self-Insured Plans
 - Multiemployer Plans
 - Governmental Plans

Employer Reporting – Code Section 6056

- Used to enforce the Employer Mandate and administer Premium Tax Credit program
- Applies to:
 - Applicable Large Employers — 50+ full-time equivalents on average in prior calendar year
 - Employers report full-time employees under §6056; however, if self-insured, employer must report on all covered employees to comply with §6055

ACA Reporting Overview



- Employer mandate penalties and reporting apply at EIN/tax ID level
 - Each entity with its own tax ID reports separately for its own employees
- However, ALE status is determined on a controlled group basis
 - Section 6056 reporting (Form 1094-C) requires disclosure of controlled group members
 - Employers will need to report related entities:
 - Parent-Subsidiary controlled group
 - Brother-Sister controlled group
 - Affiliated Service Groups
 - Familial attribution rules apply
- Talk to ERISA counsel if analysis is needed

2018 Due Dates



- Forms 1095-C must be furnished to individuals by **March 4, 2019**
 - Requests for a 30-day extension of time to furnish employee statements are available, but they're not automatic and a reason for delay must be provided
 - IRS will not respond to extension requests when due date already extended
- Forms 1094-C and 1095-C must be filed with the IRS by February 28, 2019 if by paper, or April 1, 2019 if filing electronically
 - An automatic 30-day extension of time to file with the IRS is available by completing Form 8809
 - No signature or explanation is required for the extension; however, it must be filed on or before the due date of the returns
 - Under certain hardship conditions an additional 30-day extension may apply; however, requests for additional extensions of time to file information returns are not automatically granted

ACA Reporting Quick Reference Chart



	Fully-Insured Plan	Self-Insured Plan
Insurance Carrier	Forms 1094-B and 1095-B	Not Applicable
Non-ALE (Small Employer: Fewer than 50 fulltime equivalent employees on average in prior calendar year)	Not required to file	Forms 1094-B and 1095-B
ALE (Application Large Employer: 50 or more fulltime equivalent employees on average in prior calendar year)	Forms 1094-C and 1095-C <i>(Only parts I and II of 1095-C)</i>	Forms 1094-C and 1095-C <i>(Parts I, II and III of 1095-C)</i> <i>Either B-Series or C-Series Forms for non-employees</i>

2018 Final Forms & Instructions



Changes and Highlights for 2018

- Parts I and III of Form 1095-C include separate fields for each individual’s first name, middle initial, and last name (a similar change is made to Parts I and IV of Form 1095-B)
- “Plan Start Month” on Form 1095-C remains optional for 2018
- Interim Rule for Multiemployer plans remains in place for 2018 (Codes 1H/2E)
- Instructions remind employers that there is no specific code to enter on Line 16 to indicate that a full-time employee waived coverage – a safe harbor code should be used, if applicable, otherwise Line 16 should be left blank
- Forms 1095-C filed with incorrect dollar amounts on Line 15 (employee required contribution), may fall under the safe harbor for *de minimis* errors, which generally applies if no single amount in error differs from the correct amount by more than \$100
 - If the safe harbor applies, employer is not required to correct Form 1095-C to avoid penalties
 - However, if recipient elects for safe harbor not to apply, employer must issue corrected Form

Section 6055 – Provider Reporting



Employers offering fully insured plans:

- No filing requirement under Section 6055—carriers will provide/file
- 1095-B is provided to participants (and sent to IRS)
- 1094-B is the transmittal form sent to the IRS

Small Employers (<50 FTE) sponsoring self-insured plans:

- Report using 1094-B and 1095-B for covered employees

Large Employers (≥50 FTE) sponsoring self-insured plans:

- Report using 1094-C and 1095-C for covered employees
- Will also use C-Series forms to complete Section 6056 reporting
- May use B-Series forms to report covered non-employees
 - COBRA participants & retirees in the year following termination

Section 6055 – Provider Reporting



- Provider reporting not required for on-site medical clinics, wellness programs, dental/vision, most HRAs, and plans supplemental to Medicare

- Forms and instructions
 - Form 1094-B (transmittal to IRS): www.irs.gov/pub/irs-pdf/f1094b.pdf
 - Form 1095-B (an employee statement): www.irs.gov/pub/irs-pdf/f1095b.pdf
 - Instructions: www.irs.gov/pub/irs-pdf/i109495b.pdf

Section 6055 – Reporting for HRAs



- No reporting for HRA coverage is required when an employee is covered under the HRA in connection with coverage under that employer's fully insured major medical plan
- However, if an employer offers HRAs to employees who are enrolled in their spouse's plan, the employer must report on employees covered under their HRA
- Qualified Small Employer HRAs (QSEHRAs) not subject to reporting

Form 1095-B Detail



Part I Responsible Individual																				
1 Name of responsible individual					2 Social security number (SSN or other TIN)					3 Date of birth (If SSN or other TIN is not available)										
4 Street address (including apartment no.)				5 City or town			6 State or province			7 Country and ZIP or foreign postal code										
8 Enter letter identifying Origin of the Health Coverage (see instructions for codes): ▶ <input type="checkbox"/>										9 Reserved										
Part II Information about Certain Employer-Sponsored Coverage (see instructions)																				
10 Employer name										11 Employer identification number (EIN)										
12 Street address (including room or suite no.)				13 City or town			14 State or province			15 Country and ZIP or foreign postal code										
Part III Issuer or Other Coverage Provider (see instructions)																				
16 Name										17 Employer identification number (EIN)					18 Contact telephone number					
19 Street address (including room or suite no.)				20 City or town			21 State or province			22 Country and ZIP or foreign postal code										
Part IV Covered Individuals (Enter the information for each covered individual.)																				
(a) Name of covered individual(s)	(b) SSN or other TIN	(c) DOB (If SSN or other TIN is not available)	(d) Covered all 12 months	(e) Months of coverage																
				Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec					
23			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					

Non-ALE's Reporting Self-Insured Coverage:

- Part I: Use Code B in Line 8 for self-insured employer-sponsored coverage
- Part II: Skip (completed only by carriers, for fully insured plans)
- Part III: Enter employer's information
- Part IV: Report names, SSN or other TIN, and months of coverage

Section 6056 – Employer Reporting



- Always requires the C-Series forms be completed for employees
- Forms and instructions
 - Form 1094-C (transmittal to IRS): www.irs.gov/pub/irs-pdf/f1094c.pdf
 - Form 1095-C (an employee statement): www.irs.gov/pub/irs-pdf/f1095c.pdf
 - Instructions: www.irs.gov/pub/irs-pdf/i109495c.pdf

Form 1094-C Detail



Each entity with its own EIN will have 1 and only 1 "authoritative" 1094-C



19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions

Part II ALE Member Information

20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member

21 Is ALE Member a member of an Aggregated ALE Group? Yes No
If "No," do not complete Part IV.

22 Certifications of Eligibility (select all that apply):

A. Qualifying Offer Method B. Reserved C. Reserved D. 98% Offer Method

A. "Qualifying Offer"—Highly affordable offer (FPL safe harbor) to FT employees

B. Reserved

C. Reserved

D. For all months of the year, employer offered affordable, MV coverage to at least 98% of employees for whom it is filing a Form 1095-C

Form 1094-C, Line 22 Code A: What is a Qualifying Offer?



- A Qualifying Offer is an offer of minimum value coverage to the employee that costs no more than 9.5% (as indexed) of the federal poverty level
 - Employee-only cost cannot exceed \$96.08/mo. in 2018 (\$99.75/mo. in 2019)
 - Offer must include offer of MEC to spouse and children
- Employers making a Qualifying Offer use Code 1A used in line 14 on 1095-C
 - Lines 15 and 16 may be left blank

Form 1094-C, Line 22 Code D: What is the 98% Offer Method?



- “Option to Report without Separate Certification of FT Employees”
 - Employers that offer affordable, minimum value coverage to at least 98% of employees (and dependents) included on the report may certify the offering without identifying which employees are full time
 - All the 98% Method does is allow the employer to report on an employee without identifying FT/PT status
- When might the 98% Method be useful?
 - When an employer with a self-insured plan offers coverage to FT and PT employees and does not want to have to identify FT/PT status when reporting covered employees on 1095-C
 - Employers using this method are not required to complete the FT employee count in Part III, column (b) of Form 1094-C

Form 1094-C Detail



Form 1094-C (2017)

Page 2

Part III ALE Member Information – Monthly

	(a) Minimum Essential Coverage Offer Indicator		(b) Section 4980H Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Reserved
	Yes	No				
23 All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24 Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25 Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

Form 1094-C (2017)

Page 3

Part IV Other ALE Members of Aggregated ALE Group

Enter the names and EINs of Other ALE Members of the Aggregated ALE Group (who were members at any time during the calendar year).

Name	EIN	Name	EIN
36		51	
37		52	

Form 1095-C Detail



Part II Employee Offer of Coverage

	All 12 Months	Jan	Feb	Mar
14 Offer of Coverage (enter required code)				
15 Employee Required Contribution (see instructions)	\$	\$	\$	\$
16 Section 4980H Safe Harbor and Other Relief (enter code, if applicable)				

All ALEs complete Parts I & II
(Part II shown; Part I is Employer and Employee information)

Self Funded ALEs also Complete Part III

Part III Covered Individuals

If Employer provided self-insured coverage, check the box and enter the information for each covered individual

	(a) Name of covered individual(s)	(b) SSN	(c) DOB (If SSN is not available)	(d) Covered all 12 months				
					Jan	Feb	Mar	Apr
17				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Line 14 Codes for Offers of Coverage



- 1A** Qualifying Offer (discussed earlier)
- 1B** Minimum Essential Coverage providing minimum value to employee only
- 1C** MEC providing Minimum Value to employee and dependents (not spouse)
- 1D** MEC providing MV offered to employee and spouse (not dependents)
- 1E** MEC providing MV offered to employee, spouse and dependents
- 1F** MEC NOT providing MV offered to employee
- 1G** Offer to employee who was not a FT employee for any month and who enrolled in self-insured coverage
- 1H** No offer of coverage
- 1I** Reserved (not applicable after 2015)
- 1J** MEC providing MV offered to employee and at least MEC conditionally offered to spouse (coverage not offered to dependent children)
- 1K** MEC providing MV offered to employee; at least MEC offered to dependent children; and at least MEC conditionally offered to spouse

Line 15 – Cost of Coverage



- Complete line 15 only if code 1B, 1C, 1D, 1E, 1J or 1K is entered on line 14 either in the “All 12 Months” box or in any of the monthly boxes
- Note that this amount may not be the amount the employee is paying for the coverage, for example, if the employee chose to enroll in more expensive coverage such as family coverage

Opt-Out Payments



- Guidance on Opt-Out Payments for purposes of ACA reporting / determining cost of coverage
- “Unconditional” opt-out payments increase the employee’s cost of coverage, unless transition relief applies
 - Transition relief for arrangements in effect prior to December 16, 2015 (and not substantially increased thereafter)
- “Conditional” opt-out payments do not increase the cost of coverage
 - Under a conditional opt-out, payment is available only if the employee can demonstrate enrollment in other coverage

Opt-Out Payments



Transition relief for arrangements in effect prior to December 16, 2015

- Employers not required to treat unconditional opt-out payments as increasing an employee's cost of coverage
- IRS encourages employers not to reduce the amount of the employee's required contribution on Line 15 of Form 1095-C by the amount of an opt-out payment or non-health flex credit, as treating the payment as an employer contribution may affect an employee's eligibility for a premium subsidy
- Eligible employers that do not reduce the employee's contribution may claim penalty relief under Notice 2015-87

Transition relief applies for 2017 reporting and subsequent years until final regulations are issued

Line 16 Codes to Report Safe Harbors



- 2A** Employee not employed during the month
- 2B** Employee not FT employee; not enrolled entire month
 - Use if employee terminated during the month
- 2C** Employee enrolled in coverage offered
 - Use regardless of whether any other Code applies
 - Except if 2E applies or terminated employee elected COBRA (use 2A)
- 2D** Employee in a Limited Non-Assessment Period
- 2E** Multiemployer interim relief applies to the employee
- 2F** W-2 Safe Harbor applies for the year
- 2G** Federal Poverty Level safe harbor applies
- 2H** Rate of Pay safe harbor applies
- 2I** Reserved (not applicable after 2015)

Form 1095-C – Reporting for COBRA



- Coding for COBRA offered due to **Termination of Employment**
- COBRA offered due to termination is reported as “no offer” (Code 1H) on Line 14 of Form 1095-C, regardless of whether COBRA is elected
 - 2A is used in line 16 regardless of whether the employee elects COBRA
 - 2B in the month of termination
- Instructions clarify that this applies for other post-employment coverage, such as retiree coverage, when the former employee was a full-time employee for at least one month of the year

Form 1095-C – Reporting for COBRA



Coding for COBRA offered due to a Reduction in Hours

- Instructions treat the offer of coverage at open enrollment and the offer of COBRA as two separate offers
 - For coding purposes, employer must determine who had the opportunity to enroll at each offer
 - For example, assume employee is offered family coverage at open enrollment but elects employee-only
 - Also assume employee reduces hours and experiences COBRA event 7/1
 - Until the reduction in hours and loss of coverage: 1E in Line 14
 - After the reduction in hours: 1B (offer to employee only) in Line 14

Form 1095-C – Reporting for Union EEs



- Final instructions for 2018 continue prior years' treatment of employers with collectively bargained employees
 - Employers enter code 1H in line 14 and code 2E in line 16 for any month for which the multiemployer relief applies for that employee, regardless of whether any other code in Series 2 (including code 2C) might also apply
 - Multiemployer relief: An employer is treated as offering coverage to an employee if the employer is required by a CBA to contribute for that employee to a multiemployer plan that offers, to individuals who satisfy the plan's eligibility conditions, health coverage that is affordable and provides minimum value, and that also offers health coverage to those individuals' dependents

Alternative Statement to 1095-C



- If an employee (A) is not covered under a self-insured plan, and (B) receives a Qualifying Offer for the entire calendar year, the employer may provide an “alternative statement” in lieu of Form 1095-C
- Limited usefulness, as employer must still provide 1095-C to IRS
- An employer may report that it made a Qualifying Offer to an employee in certain months, even if the employee did not receive one for the entire year; however, use of the alternative statement is not permissible unless the Qualifying Offer was made for the entire calendar year

Alternative Statement – Content



- Employer name, address, and EIN
- Contact name and telephone number at which the employee may receive information about the offer of coverage and the information on the Form 1095-C filed with the IRS for that employee
- A statement indicating that, for all 12 months of the calendar year, the employee and his or her spouse and dependents, if any, received a Qualifying Offer and therefore are not eligible for a premium tax credit
- A statement directing the employee to see Pub. 974, Premium Tax Credit (PTC), for more information on eligibility for the premium tax credit

Penalties for Reporting Failures



- IRS has granted relief from penalties for accuracy-related errors for 2015 – 2018, if employer can show a good faith effort to comply
- Standard penalties for reporting failures can be **\$270** per return, up to **~\$3M** per year
 - **\$530** per return with no cap for willful failures
 - Reduced penalties apply for failures corrected on or before 30 days after the required filing date (\$50 per return) or after the 30th day but on or before August 1 (\$100 per return)
 - Penalties may also be waived for failures due to reasonable cause and not willful neglect

SSN/TIN Reporting Errors



- Employers may receive AIRTN500 messages – “Accepted with Errors”
 - for one or more 1095-C’s due to an incorrect SSN/TIN
 - These error messages do not trigger a new solicitation requirement
- Under TIN solicitation rules, employer must make an initial TIN solicitation which, presumably, has produced the incorrect TIN
- If the first TIN solicitation is unsuccessful, employer must make two additional solicitations to try to obtain a TIN
 - Additional solicitations are required if employer is notified by the IRS that the TIN is incorrect
 - AIRTN500 message is not considered notice from the IRS

ESRP Penalty Letters



- Employers are receiving penalty letters (226J) for 2015 and 2016
- Letter 226J includes:
 - Proposed penalty by month and whether it’s under the “A” or “B” penalty
 - List of employees who received a subsidy each month and who were not reported as being within a “safe harbor”
 - Actions the IRS will take if the ALE does not respond timely
- Response due within 30 days of receipt
 - IRS will respond with one of five versions of Letter 227
 - Response to Letter 227 due within 30 days of receipt
 - If no response, IRS will issue a notice and demand for payment

Letter 226J ESRP Summary Table



ESRP Summary Table

Information Reported to IRS							
Month	a. Form 1094-C, Part III, Col (a) Minimum essential coverage offer indicator offered to at least [70% or 95%]	b. Form 1094-C, Part III, Col (b) Full-time employee count for ALE member	c. Allocated reduction of full-time employee count for IRC Section 4980H(a)	d. Count of assessable full-time employees with a PTC for IRC Section 4980H(a)	e. Count of assessable full-time employees with a PTC for IRC Section 4980H(b)	f. Applicable IRC Section 4980H provision	g. Monthly ESRP amount
Jan	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Feb	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
March	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
Apr	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]
May	[Yes/No]	[xxx]	[xx]	[x]	[x]	[4980H(a)/4980H(b)]	[\$xx,xxx]

Form 14765 – Employee PTC Listing



Form **14765**
(April 2017)

Department of the Treasury - Internal Revenue Service

Employee Premium Tax Credit (PTC) Listing

Any month not highlighted is a month that the employee received a PTC and no safe harbor or other relief from the ESRP was applicable. The employee is an assessable full-time employee for that month.

Employer name										Employer ID number			Tax year			Additional Information Attached
Employee Name <i>(last, first)</i>	SSN <i>(last 4 digits)</i>	All 12 months Indicator Codes <i>(Form 1095-C, lines 14 and 16 combined)</i>	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Barrow, Stacy	0000	1st row - filed	No PTC	No PTC	1H / 2A	1H / 2D	1H/	1H/	1H/	1H/	1H/	1H/	1H/	1H/	<input type="checkbox"/>	
		2nd row - corr														<input type="checkbox"/>
															<input type="checkbox"/>	
															<input type="checkbox"/>	

Letter 5699



- **IRS contacting employers it believes should have filed ACA forms**
 - Letters going out for 2015 and 2016
 - Recipients have 30 days to respond and indicate:
 - They were an ALE and already filed under a different EIN;
 - They were an ALE and have included the forms with the response (paper filers only); or
 - They were an ALE and will file by “X” date (if longer than 90 days, explanation is required)
- **Employers should talk to ERISA counsel before responding**

Common Questions



How do I report for all members of the controlled group?

- You don't. Reporting is performed on a per-EIN basis
- Each entity completes its own Authoritative 1094-C
- Provides a summary to the IRS of aggregate employer-level data

What line 16 code (Form 1095-C) should I use for an employee who declines to enroll?

- There's no code for an employee who declines the employer's plan – leave the entry blank or use any other code that applies (e.g., 2F, 2G or 2H if one of the affordability safe harbors apply)

Do we report on every employee who worked 130 hours in one or more months of the year?

- Employees in a limited non-assessment period (LNAP) are not full-time employees
 - LNAPs include waiting periods and initial measurement periods
 - Employees who terminates during an LNAP will not receive a Form 1095-C



Questions?

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