



Affordable Care Act Compliance: IRS Releases Draft 2016 Employer Reporting Forms and Instructions

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In Depth

On August 2, the Internal Revenue Service (IRS) released [revised draft Forms 1094-C](#) and [1095-C](#), and draft instructions for completing these forms for the 2016 reporting year (see [here](#)). Although these are not final versions, it is important for employers to review the updates and changes from the 2015 forms and instructions as they prepare for the 2016 filings.

Background

The Affordable Care Act (ACA) created new reporting requirements under Sections 6055 and 6056 of the Internal Revenue Code (Code). The new rules require an applicable large employer (ALE) to report, on IRS Forms 1094-C and 1095-C, information about offers of health insurance coverage to full-time employees (FTEs) and the provision of minimum essential coverage (MEC). The Form 1094-C is also referred to as the “authoritative transmittal.” For 2016, an ALE is generally an employer with 50 or more FTE equivalents. Under Code Section 6056, an ALE must annually file with the IRS a report listing the offers of coverage made to its FTEs during the reporting year. In addition, ALEs must furnish a related statement of coverage information to FTEs. Under Code Section 6055, employers (including ALEs) who provide MEC under self-insured plans must also report MEC information for each individual covered under the employer’s self-insured plan. ALE status is determined on a controlled group basis, and each member of the controlled group is an “ALE Member” with an independent responsibility to file a Form 1094-C and Form 1095-Cs. Generally, the reporting is required at the employer identification number (EIN) level.

Under Code Section 6055, employers that are not ALEs must report MEC information on Forms 1094-B and 1095-B. Although these forms were also revised recently, draft instructions for completing these forms have not yet been released.

Highlights of Changes

While the draft 2016 Forms 1094-C and 1095-C and related instructions are similar to the 2015 forms and instructions, there are several notable changes, including the following:

- ***Forms 1094-C/Authoritative Transmittal:*** The draft instructions clarify that each ALE Member should only file one authoritative transmittal, even if multiple Forms 1094-C are filed by the ALE Member. The draft instructions contain examples illustrating this requirement. An authoritative transmittal should not be filed on behalf of an aggregated group of ALE Members. An ALE Member's contact person on the Form 1094-C may be different than the contact information on the Form 1095-C.
- ***Required Form 1094-C and Form 1095-C Corrections:*** The draft instructions revise the list of items requiring a corrected Form 1094-C and 1095-C. Under the list in the draft instructions, an ALE Member must file a corrected Form 1094-C authoritative transmittal if the original transmittal contained an error in the name or EIN of other ALE Members of the ALE controlled group, and changes the requirement that a corrected Form 1095-C be filed due to an error in premium amount on the original Form 1095-C to a requirement that a corrected Form 1095-C be filed due to an error in the "Employee Required Contribution" on the original.
- ***Employee Required Contribution:*** The draft instructions include the new term "Employee Required Contribution," defined as the employee's share of the monthly cost for the lowest-cost self-only minimum essential coverage providing minimum value that is offered to the employee by the ALE Member. The instructions further clarify that the employee share is the portion of the monthly cost that would be paid by the employee for self-only coverage, whether paid through salary reduction or otherwise.
- ***Transition Relief:*** In 2015, "Section 4980H Transition Relief" exempted ALE Members with non-calendar year plans and 50-99 FTE equivalents from penalties under Code Section 4980H, and for ALE Members with 100 or more FTE equivalents, decreased the

requirement to offer health coverage to FTEs from 95 percent of FTEs to 70 percent of FTEs. For 2016, this transition relief only applies for non-calendar year plans, and only for months in 2016 that fall within the plan year that commences in 2015. The Qualifying Offer Method Transition Relief is not applicable in 2016 under the draft instructions. Therefore, an employer may only use the Qualifying Offer Method in 2016 if the FTE had an offer of affordable, minimum value MEC for all 12 months of the plan year using the rate of pay affordability safe harbor.

- ***Calculating FTE Count:*** The draft instructions provide additional guidance for calculating an ALE Member's number of FTEs for purposes of completing Form 1094-C. Specifically, the instructions provide that an employee should be counted as an FTE for a month if the employee satisfied the definition of FTE under the monthly measurement period (if applicable) on any day of the month. If the ALE Member uses the look-back measurement method to determine FTE status, the ALE Member must include as FTEs individuals in stability periods during which the individual is to be treated as an FTE. The instructions also clarify that an ALE Member should use the Code Section 4980H definition of "full-time employee" to determine the number of FTEs for a month and not any other definition of the term used by the employer.
- ***Form 1095-C Coding Changes:*** Various changes or clarifications were made to the Codes used on the Form 1095-C. For example, the draft instructions add new Code 1J and 1K for Line 14 to reflect "conditional offers of spousal coverage", which are offers subject to one or more reasonable, objective conditions, including an offer to cover an employee's spouse only if the spouse is not eligible for coverage under Medicare or a group health plan sponsored by another employer.
- ***Reporting COBRA Coverage:*** The draft instructions provide new guidance for reporting COBRA continuation coverage information on Form 1095-C. For employees who remain employed by an ALE Member after a reduction in hours, offers of COBRA coverage should continue to be reported as in 2015. For employees who terminate employment, coverage should be reported on the Form 1095-C as "no offer" (Code

1H) on Line 14 for each month the offer of COBRA coverage applies, and “employee not employed” (Code 2A) on Line 16.

- ***Reporting Post-Employment (Non-COBRA) Coverage:*** The draft instructions provide that an offer of post-employment coverage to a former employee (or the former employee’s spouse or dependents) for coverage effective after the employee’s termination of employment should not be reported as an offer of coverage on Line 14. If the ALE Member is required to file a Form 1095-C for the former employee because the individual terminated in 2016 but was employed during one or more months in 2016, Code 1H should be used on Line 14, and Code 2A on Line 16 should be used for any month in which the post-employment offer of coverage applies.
- ***Multiemployer Plans:*** The draft instructions continue for 2016 the multiemployer plan interim guidance from the 2015 reporting year. Employers with employees subject to a collective bargaining agreement can treat those employees as having received an offer of health coverage if under the agreement the employer is obligated to contribute to a multiemployer plan, and coverage under the multiemployer plan is affordable, has minimum value and offers dependent coverage>.

When to File

In general, employers must file Forms 1094-C and 1095-C by February 28 (March 31 if filing electronically) of the year following the calendar year to which the return relates. For the 2016 calendar year, the forms are required to be filed by February 28, 2017, or March 31, 2017, if filing electronically.

An ALE Member must furnish a Form 1095-C to each of its FTEs by January 31 of the year following to which the return applies. Forms 1095-C for the 2016 calendar year must be furnished by January 31, 2017.

Next Steps

The 2016 forms are draft versions only and should not be filed with the IRS or relied upon for filing. Employers should review the updates and changes from 2015 instructions as they prepare for the 2016 filings.

