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HEALTH CARE REFORM

Eye on Washington

IRS RELEASES DRAFT INSTRUCTIONS FOR 2014 FORMS 1095-C, EMPLOYER-PROVIDED HEALTH INSURANCE OFFER AND COVERAGE

On August 28, 2014, the Internal Revenue Service (IRS) released draft instructions for Forms 1094-C and 1095-C, and other forms required by the Affordable Care Act (ACA). Employers that are subject to the ACA employer “shared responsibility” mandate will use the new forms to report health insurance coverage offered under employer-sponsored plans in accordance with Section 6056 of the Internal Revenue Code (IRC). The instructions offer valuable insights that employers should understand to develop their record-keeping and reporting systems for years after 2014.

Highlights of the draft instructions for Form 1095-C follow. Another recent *Eye on Washington* offers a similar summary of the draft instructions for Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns.

Reporting Begins With Calendar Year 2015 (Reports Due in 2016 for 2015)

Forms 1095-C are not required to be filed by any employer for 2014, and no employer shared responsibility payments under Section 4980H will apply for 2014 for any employer. For more information on transition relief from the reporting requirements and employer shared responsibility payments for 2014, see Notice 2013-45 and the transition relief in the final Section 6056 and employer mandate regulations. The first Forms 1095-C are due in early 2016 to report 2015 coverage.

For more information on transition relief from the reporting requirements and employer shared responsibility payments for 2014, see Notice 2013-45 at www.irs.gov/irb/2013-31_IRB/ar08.html.

In addition, in 2015, Section 4980H Transition Relief for Applicable Large Employers (ALEs) with Fewer Than 100 Full-Time Employees or Section 4980H Transition Relief for ALEs with 100 or More Full-Time Employees may apply. However, this transition relief is solely for the employer

for purposes of Section 4980H penalties and does not affect the employee’s potential eligibility for the premium tax credit. Accordingly, even if the employer is eligible for Section 4980H transition relief, Forms 1095-C must still be filed and furnished and must accurately reflect any health coverage offered to each full-time employee (and any part-time employee enrolled in a self-insured plan), including any required employee contribution.

Purpose of Form

Employers with 50 or more full-time employees (including full-time equivalent employees) in the prior calendar year will use Form 1095-C to report the information required under IRC Section 6056 (and Section 6055, for self-insured ALE Members) about offers of health coverage and enrollment in health coverage for their employees. Form 1095-C must be used to report to the IRS detailed information for each full-time employee and any non-full-time employees enrolled in self-insured coverage. The 50 or more full-time and full-time equivalent employee test applies on an aggregated group basis, but reporting is done on an individual employer basis (referred to in the



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HEALTH CARE REFORM

Eye on Washington

instructions as an “Applicable Large Employer Member (ALE Member)” or “employer”).

Information Reported on the Form and Filing Requirements

Employers must file a Form 1095-C (or substitute form) for each employee who was a full-time employee for any month of the calendar year and for each part-time employee who enrolled in the employer’s self-insured plan. An employer must furnish a Form 1095-C to each of these employees by January 31 of the following year. Social Security Numbers may be truncated on the employee copies, but not on copies filed with the IRS. Employer Identification Numbers (“EINs”) may not be truncated.

There are special rules for reporting for employers that participate in multiemployer plans and governmental plans.

The Forms 1095-C must be furnished on paper by mail, unless the recipient affirmatively consents to receive the statement in an electronic format. The instructions do not address whether employers may deliver Forms 1095-C through interoffice mail or personal delivery.

One Form 1095-C for Each Employee

For each employee for whom the employer is reporting, there must be only one Form 1095-C to reflect employment with that employer. For example, if an employer separately reports for the employees of its two divisions, the employer must combine the information for any employee who worked at both divisions during the calendar year so that there is only a single Form 1095-C for that employee, reporting information for all twelve months of the calendar year.

In contrast, a full-time employee who works for more than one employer that is a member of the same Aggregated ALE Group (i.e., two entities that have different EINs) must receive a separate Form 1095-C from each employer.

Self-Insured Employers

An ALE Member that provides health coverage through an employer-sponsored self-insured health plan must complete Form 1095-C, Parts I and III, for any employee who enrolls in the health coverage, whether or not the employee is a full-time employee for any month of the calendar year. If the employee is a full-time employee for any month of the calendar year, the employer must also complete Part II. If the employee is not a full-time employee for any month of the calendar year, the employer must report Code 1G in the “All 12 Months” column of Part II.

Self-insured ALE Members must also provide information about each covered individual (e.g., employees and their spouses and dependents) in Part III.

An employer that provides employer-sponsored self-insured health coverage, but is not subject to the employer shared responsibility provisions under Section 4980H (i.e., the employer employed less than 50 full-time and full-time equivalent employees in the prior calendar year), is not required to file Forms 1095-C, and will instead report on Forms 1094-B and 1095-B for employees (full-time and part-time) who enrolled in the employer-sponsored self-insured health coverage.

Retirees (former employees of an ALE Member) who were full-time employees during any month of the reporting year must be reported on Form 1095-C. The instructions do not address whether employers report retirees who are retired for the entire year (or COBRA participants) on Form 1095-C or Form 1095-B. However, the IRS has informally said that the employer reports for these individuals on Form 1095-B.

Electronic Filing Requirements

Filers of 250 or more Forms 1095-C are required to file the forms electronically. The IRS plans to release Publication 5165, “Affordable Care Act Information Returns (AIR) Guide for Software Developers and Transmitters,” later this year to explain communication



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HEALTH CARE REFORM

Eye on Washington

procedures, transmission formats, business rules, and validation procedures for returns filed electronically through the AIR system.

Specific Instructions for Form 1095-C

Part I – Employee and Applicable Large Employer Member (Employer)

In Part I, the ALE Member reports the name, address and Social Security Number of the employee, as well as the ALE Member's name, address, phone number and EIN.

Part II – Employee Offer and Coverage

Part II of Form 1095-C includes three key lines through which employers will identify, for each month, information such as whether the employee was full-time; whether he/she was offered coverage and information about the coverage offered; whether he/she was actually covered; whether such coverage was made available to the employees' spouse and/or dependents; the monthly cost to the employee of the lowest-cost self-only coverage offered; and any applicable transition relief or safe harbor codes.

Line 14 provides for reporting of "Code Series 1," which can be entered for "All 12 Months" or for each calendar month. Code Series 1 identifies information about the health coverage actually offered to the employee, if any, and his/her spouse/dependents. A code must be entered for each calendar month, even if the employee was not a full-time employee for one or more months.

Code 1A denotes a Qualifying Offer, which is an offer of minimum essential coverage providing minimum value to a full-time employee with an employee contribution for self-only coverage equal to or less than 9.5% of the mainland single federal poverty line, and at least minimum essential coverage offered to the spouse and dependent(s).

Simplified Employee Statements

An employer that made a Qualifying Offer to an employee for all 12 months may, rather than furnishing a copy of

Form 1095-C to that full-time, instead provide a statement containing the following information:

- Employer name, address, and EIN.
- Contact name and telephone number.
- A statement indicating that, for all 12 months of the 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.

Additionally, for 2015 only, employers that did not make a Qualifying Offer to an employee for all 12 months of the year, but did make a Qualifying Offer for one or more months of 2105 to at least 95% of its full-time employees can report Code 1I for the months it did not make a Qualifying Offer (and Code 1A for the months in which a qualifying offer was made). Also, rather than providing the employee with a copy of Form 1095-C, the employer may furnish a statement containing the employer identification information outlined above, with a statement indicating that the employee and his or her spouse and dependents, if any, *may* be eligible for a premium tax credit for one or more months of 2015.

Codes 1B through 1E indicate that minimum essential coverage providing minimum value was offered to the employee only, or employee plus dependents, or employee and spouse, or to all.

1F denotes that minimum essential coverage NOT providing minimum value was offered.

1G identifies an employee who was not full-time for any month of the year, but was offered coverage and enrolled in self-insured coverage for one or more months of the calendar year. If applicable, Code 1G must be entered in the "All 12 Months" box. The monthly boxes should NOT be completed.

1H is used to report that an employee was not offered any health coverage, or was offered coverage that is not minimum essential coverage.



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HEALTH CARE REFORM

Eye on Washington

Code 1I is used to establish the Qualified Offer Transition Relief for 2015, as described above.

Line 15 should be completed only if Code 1B, 1C, 1D, or 1E is entered on line 14. This line reports the monthly employee share of the lowest-cost premium for self-only coverage offered to the employee.

Line 16 provides for the reporting of any applicable 4980H safe harbor or transition relief code, from Code Series 2. Only one code from Code Series 2 may be entered for any month. The instructions explain which code to use if more than one code could apply for any month. These codes indicate that, under a 4980H safe harbor or transition relief, the employer will not be subject to a Code Section 4980H penalty for the month with respect to the employee, or that the health coverage offered will be treated as affordable for purposes of Section 4980H(b) under an affordability safe harbor.

Code 2A identifies an employee who was not employed on any day that month.

2B indicates that the employee was not a full-time employee for the month and did not enroll in minimum essential coverage.

2C identifies an employee who was enrolled in coverage offered during the month, regardless of whether any other code in Code Series 2 might also apply; i.e., use Code 2C if Code 2C and any other code(s) may apply for the month.

2D is for employees in a Section 4980H(b) **Limited Non-Assessment Period** during a month. A Limited Non-Assessment Period generally refers to a period during which an ALE Member will not be subject to an assessable payment under Section 4980H(a), and in certain cases Section 4980H(b), for a full-time employee, regardless of whether that employee is offered health coverage during that period. Examples include:

- January through March for first-year ALEs
- Waiting Periods (e.g., generally the first 3 calendar months of employment)

- Initial Measurement and Administrative Periods
- Periods following a change in status that occurs during an Initial Measurement Period

See the instructions and definitions for more details on Limited Non-Assessment Periods.

2E is entered to claim the “Multiemployer” interim rule relief. If both Code 2D and 2E could apply or any of the Section 4980H affordability safe harbors (Codes 2F, 2G, or 2H), enter Code 2E.

2F, 2G, and 2H denote a Section 4980H Affordability Safe Harbor:

2F is the Section 4980H Affordability Form W-2 safe harbor. If an employer uses this safe harbor for an employee, it must be used for all months of the calendar year for which the employee is offered health coverage.

2G is the Section 4980H Affordability Federal Poverty Line safe harbor.

2H is the Section 4980H Affordability Rate of Pay safe harbor.

2I is used to report that non-calendar year transition relief applies to this employee for the month. See the instructions and definitions for details.

Part III – Covered Individuals

Part III identifies each covered individual under an employer-sponsored self-insured health plan, including spouses and dependents, and identifies the months of coverage. Part III is **ONLY** completed if the employer offers self-insured health coverage in which the employee enrolled. This part must be completed by an ALE Member offering self-insured health coverage for any employee who enrolled in the coverage, regardless of whether the employee is a full-time employee. Self-insured health coverage does not include coverage under a multiemployer plan.

Employers that offer employer-sponsored self-insured health coverage to non-employees (e.g., directors) who enroll

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HEALTH CARE REFORM

Eye on Washington

in the coverage will complete Forms 1094-B and 1095-B, rather than Form 1095-C for those individuals.

Part III includes columns for names, SSNs (or birth dates, if SSNs are not available) of all covered individuals (including spouses and dependents), and check-boxes to identify the months of coverage. Employers could be subject to penalties if accurate SSNs are not reported, unless it can be demonstrated that they followed IRS procedures to solicit SSNs referenced in the Code Section 6055 regulations.

Next Steps

Now that regulations are final and draft forms and instructions have been published, affected employers should take steps to ensure that all necessary data is collected for calendar year 2015, and that reporting systems are established to comply with the ACA Sections 6055 and 6056 reporting obligations.

For more information, see:

Draft [instructions for Forms 1094-C/1095-C](#)

Final [regulations](#) (TD 9661, Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer-Sponsored Plans)

[IRS Draft Form 1095-C](#)

[IRS Draft Form 1094-C](#)

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