ACA: EMPLOYER MANDATE REPORTING REQUIREMENTS

The ACA requires most employers sponsoring group health plans to report certain plan coverage information to the IRS and to provide statements to employees. Beginning in 2024, employers that file 10 or more returns of any type must do so electronically.

Employers with 50 or more full-time employees (FTEs) that sponsor fully insured group health plans and all employers that sponsor self-insured (including level-funded) group health plans are required to report information to the IRS about the health coverage provided during the prior calendar year. The reporting requirement assists the federal government in enforcing compliance with the ACA employer mandate. The reporting also ensures proper administration of the premium tax credit and cost-sharing subsidy eligibility and payments through both the federally facilitated and state-run health insurance exchanges.

In addition, employers are required to provide employees with annual statements that summarize the employer's report to the IRS. These statements help employees determine their eligibility for a premium tax credit and, prior to 2019, their compliance with the ACA individual mandate. Note that effective since calendar year 2019, the penalty for non-compliance with the federal individual mandate is reduced to zero (although state individual mandate penalties could apply). Largely in response to this change, several states enacted their own individual mandate rules. For further information about state individual mandates, see the NFP publication **State Individual Mandate Reporting Requirements**.

Employers have two separate reporting and employee statement requirements: IRC Section 6055 (all employers that sponsor self-insured plans) and Section 6056 (all employers that are subject to the employer mandate). Employers that are subject to both Sections 6055 and 6056 (i.e., self-insured employers with 50 or more FTEs, including full-time equivalents) may combine their reporting, as described below. The grandfathered status of a plan does not affect the employer's reporting obligations. For further information about Sections 6055 and 6056 reporting requirements, see the NFP publication **ACA: FAQs for Employer Reporting Under Sections 6055 and 6056**.

GENERAL PRINCIPLES FOR SECTIONS 6055 AND 6056

Before getting into specifics on the two reporting requirements, it is helpful to understand some general principles that apply to both Sections 6055 and 6056, including due dates, the specific IRS forms used for reporting, and the methods for filing with the IRS and distributing statements to employees.

Due Dates

Employers must file their reports on or before February 28 (March 31, if filing electronically) of the year following the calendar year to which the reporting relates. These dates apply regardless of the policy year or ERISA plan year of the employer-sponsored coverage, and the February 28 paper filing date is not affected by leap years. In addition, employers must distribute employee statements by March 2 of the following year (or by March 1 in leap years, as the date reflects a permanent 30-day extension of the original January 31 deadline for furnishing ACA reporting forms to employees). When a due date falls on a weekend or federal holiday, the due date is extended to the next business day. (See under the Reporting Methods sub-section below for important information regarding new electronic filing requirements beginning in 2024.)

Forms for Reporting

With respect to reporting forms, reporting will be made on several different IRS forms. Generally, there are transmittal forms (Forms 1094-B and 1094-C) that will accompany the actual information reports (Forms 1095-B and 1095-C). Notably, Form 1095-C is divided into two sections to facilitate combined reporting for employers that are both large and self-insured.

The specific forms that must be filed depend on the employer's size (small versus large, with "large" defined as employers with 50 or more FTEs, including full-time equivalents — i.e., those subject to the employer mandate) and the plan type (self-insured versus fully insured), as outlined in the following chart:

Employer Type	6055	6056	IRS Report	Employee Statement
Small Fully Insured	No	No	N/A	N/A
Small Self-Insured	Yes	No	Form 1094-B | Form 1095-B	Copy of Form 1095-B or Substitute*
Large Fully Insured	No	Yes	Form 1094-C | Form 1095-C | Parts I & II only	Copy of Form 1095-C or Substitute*
Large Self-Insured	Yes	Yes	Form 1094-C | Form 1095-C | Parts I, II, and III	Copy of Form 1095-C or Substitute*

*Substitute must include same information as actual form.

Reporting Methods

Beginning in 2024, employers that file 10 or more returns of any type (i.e., counting Forms 1094-B/1095-B, 1094-C/1095-C, W-2, and 1099 together) to the IRS in a calendar year must do so electronically. This means nearly all employers must file electronically. Employers may also use third-party administrators to file on their behalf, although the employer remains liable for any reporting failures.

When distributing employee statements, employers may send statements via first-class mail to the recipient's last known address. Importantly, employee statements may be included in the same mailing with Form W-2. Employers may also distribute statements electronically, provided the delivery follows the DOL's electronic disclosure safe harbor guidelines or the employee consents to electronic delivery. Employers should keep accurate records of their distribution procedures in case they are required to provide evidence, such as in the event of an IRS audit. For more detailed information about electronic distribution rules, including a **Sample Employee Communication** and a **Sample Employee Consent to Receive Plan Disclosures**, see the NFP publication **Electronic Distribution Rules: A Guide for Employers**.

SECTION 6055 REPORTING: EMPLOYERS OF ANY SIZE WITH SELF-INSURED GROUP HEALTH PLANS

Section 6055 reporting applies to employers of any size that sponsor a self-insured (including level-funded) group health plan, government agencies that administer government-sponsored health insurance coverage, and any other entity that provides minimum essential coverage (MEC) to individuals. MEC includes any major employer-sponsored medical plan, including retiree-only coverage (such as a retiree-only HRA) but does not include excepted benefits (such as health FSAs, stand-alone dental and vision plans, supplemental coverage), HRAs for active employees, Medicare Part B, on-site medical clinics, or wellness programs.

Section 6055 requires employers to provide specific information in their Forms 1095-B or 1095-C as follows:

1. Employer's name, address, and employer identification number (EIN)
2. Each covered individual's name, address, and taxpayer identification number (TIN); if the employer, after reasonable efforts, is unable to obtain an individual's TIN, it may instead report the individual's date of birth (DOB)
3. For each covered individual, the months for which the individual was enrolled (for at least one day) in coverage and entitled to receive benefits
4. Whether coverage is Small Business Health Options Program (SHOP) coverage (and, if so, the SHOP identifier)

It is important to note that covered individuals include spouses, domestic partners, dependents, and former employees, including COBRA participants and retirees. Employers must also include all covered individuals, even if those individuals are not common law employees. For example, if an employer covers independent contractors or board members, the employer must include them in the report. Employers must distribute a copy of Form 1095-B or 1095-C to each covered employee and former employee (including covered individuals who are not common law employees).

SECTION 6056 REPORTING: EMPLOYERS WITH 50 OR MORE FTEs SPONSORING FULLY OR SELF-INSURED GROUP HEALTH PLANS

Section 6056 reporting applies to all employers subject to the employer mandate (generally, those with 50 or more FTEs and full-time equivalents). Section 6056 requires employers to provide specific information in their Forms 1095-C as follows:

1. Employer's name, address, and EIN
2. Employer's contact person's name and telephone number
3. The calendar year for which the information is reported
4. Number of FTEs for each month during the calendar year
5. Months during the calendar year that MEC was offered
6. Certification (by calendar month) of whether the employer offered its FTEs and their dependents the opportunity to enroll in MEC
7. Each FTE's share (by calendar month) of the self-only premium for MEC
8. Name, address, and TIN (or DOB) of each FTE employed during the calendar year
9. Months, if any, during which each FTE was covered under the plan

Simplified Section 6056 Reporting Options

Employers may be eligible for one of two simplified reporting options under Section 6056. The first option is available if the employer made a "qualifying offer" of coverage, meaning it offered minimum value (MV) MEC to all FTEs and their dependents and the employee monthly cost-share for the lowest-cost self-only coverage did not exceed the indexed affordability threshold for the mainland single federal poverty line. In that case, if the qualifying offer was made for all 12 months of the calendar year, then the employer reports only the employee's name, address, and TIN, plus an indication (via the applicable indicator code) that a qualifying offer was made for all 12 months. If the qualifying offer was made for only part of the year, then the employer enters a code for the months in which the qualifying offer was made. Finally, the simplified report may also be provided as the employee statement.

The second option is available if the employer offered MV MEC that was affordable under one of the ACA affordability safe harbors to at least 98% of employees for whom the employer is filing a Form 1095-C and offered at least MEC to their dependents. In that case, the employer may certify that it has done so and provide Section 6056 reporting with respect to all employees (rather than determining the number of FTEs or specifying whether a particular employee is an FTE and was offered coverage). In other words, in lieu of reporting items 4–8 above, the employer certifies that all FTEs were eligible for affordable MV MEC for all calendar months in the year. The simplified report may also be provided as the employee statement.

Section 6056 Reporting for Multiemployer Group Health Plans

Generally, in the multiemployer/collectively bargained plan setting, the multiemployer group health plan provides the health coverage itself, and the participating employers contribute to the coverage. Generally, Section 6056 reporting applies only to the employer providing coverage to its employees (and not to the multiemployer plan itself). However, Section 6056 allows the multiemployer plan administrator to prepare reports for FTEs who are covered by the collective bargaining agreement and who are participating in the multiemployer plan. So, while employers must submit returns for non-collectively bargained plan employees, the multiemployer plan administrator may handle Section 6056 reporting (and employee statements) on behalf of the employer with respect to the employees participating in the multiemployer plan. Note that the employer remains liable for any penalties for failure to comply. If the multiemployer plan does not or will not prepare reports, the employer must report an offer of coverage made to any employee who makes a contribution pursuant to a collective bargaining agreement.

COMBINED SECTIONS 6055 AND 6056 FILING FOR LARGE EMPLOYERS WITH SELF-INSURED PLANS

Most employers that sponsor self-insured (including level-funded) plans will also be considered large employers and are therefore subject to both Sections 6055 and 6056 reporting requirements. Such employers may combine their two reports into one by using Forms 1094-C and 1095-C and completing all three sections of Form 1095-C. Such employers must also distribute a copy of Form 1095-C or a substitute to all covered employees.

SECTIONS 6055 AND 6056 REPORTING FOR CONTROLLED GROUPS

Special rules apply to employers that are part of a controlled group (as determined under IRC Section 414). A controlled group is one in which multiple employers share sufficient common ownership or control. For example, a parent company and a wholly owned subsidiary company would be under common control. Each member of the controlled group is referred to as a group "member."

For controlled groups, group members may separately submit their Sections 6055 and 6056 reports, or one member may submit reports on behalf of each member of the group. Regardless, each group member remains separately liable for its own Section 6055 and/or 6056 filing. For example, suppose a controlled group consists of a parent company and 10 subsidiaries (i.e., there are 11 entities subject to ACA reporting requirements), and the parent agrees to file on behalf of all 10 subsidiary group members. If the parent fails to file on behalf of subsidiary 1, the IRS may still penalize subsidiary 1 for failing to file. Lastly, special rules apply to an employer that is a qualified subchapter S subsidiary. Such employers should consult with tax or legal counsel to confirm the application of special ACA reporting rules.

CORRECTING ELECTRONIC REPORTS

As noted above, beginning in 2024 (for calendar year 2023 reporting), most employers must file their ACA forms electronically. Employers that file electronically will receive one of the following five confirmation responses from the IRS and may need to take timely action to ensure full compliance with the reporting requirements:

- **"Accepted":** The filing was accepted with no obvious filing errors.
- **"Accepted with Errors":** The filing was accepted, but the employer is expected to correct incorrect information that is present on some of the filed forms.
- **"Partially Accepted":** Some of the filed Forms 1095-C were accepted, but others were rejected because of unusable data.
- **"Rejected":** Entire filing was rejected (perhaps due to an incorrect Form 1094-C or significant errors on Forms 1095-C).
- **"Not Found":** The IRS has no record of the filing.

"Accepted": Employers that receive an "Accepted" confirmation have no further filing obligation for the reporting year. All other IRS responses require further action. Filings that are rejected, not found, or otherwise contain incorrect information must be corrected and refiled as soon as possible.

"Accepted with Errors": A common reason that a file may be "Accepted with Errors" is an incorrect or inconsistent Social Security number (SSN). That is, the employer's source database for ACA reporting (typically its payroll or HRIS database) reflects a first name, last name, and/or SSN that does not match the information on record with the Social Security Administration (SSA). This can result from a data entry error or can occur when an employee neglects to update their married or maiden name with their employer and SSA simultaneously. It also occurs when the employer's source database reflects an employee's nickname or middle name in the "First Name" field. Employers are expected to correct SSN errors even if the filing was accepted. If an employee verifies their name and SSN and the information still yields a mismatch, then the employer may need to take additional steps (such as reaching out to the SSA).

Another reason that a file may be "Accepted with Errors" is because of inaccurate or incomplete reporting forms (i.e., missing values on lines 14, 15, or 16 of Form 1095-C). If the submission was accepted but a particular form was identified as having errors, then the errors should be corrected and only the affected forms (but not the entire submission) should be re-filed. A new transmittal form (i.e., Form 1094-C) should accompany any re-filed forms. In addition, for forms that require a copy to go to the employee (i.e., Form 1095-C), a corrected copy of the form should be provided. A report that is "Accepted with Errors" is treated as having been timely filed if the original report was filed by the applicable deadline.

"Partially Accepted": "Partially Accepted" is similar to "Accepted with Errors" in that the employer needs to correct and re-file particular forms, but not the entire submission. A report that is "Partially Accepted" is treated as having been timely filed if the original report was filed by the applicable deadline.

"Rejected": Employers that receive an ACA filing confirmation of "Rejected" must re-submit (i.e., replace) the entire filing within 60 days. Corrected Forms 1095-C, if any, must be provided to affected employees. "Rejected" reports that are re-submitted within 60 days are treated as having been timely filed if the original report was filed by the applicable deadline. If the replacement report is filed more than 60 days after the original filing, it will be treated as untimely filed.

"Not Found": Employers that receive an ACA filing confirmation of "Not Found" must immediately re-submt the entire filing in order for the filing to be considered timely filed (assuming the original report was filed by the applicable deadline).

PENALTIES

In addition to penalties that large employers may incur for their failure to offer affordable, minimum-value coverage to substantially all of their FTEs, IRC Sections 6721 and 6722 contain penalties for employers of all sizes that fail to execute their Sections 6055 and 6056 reporting obligations, including providing individual statements to employees and filing forms with the IRS. For calendar 2022 statements (i.e., due to employees in 2023), the penalty is generally $280 per failure, with a maximum penalty of $3,426,000. For calendar 2023 statements (i.e., due to employees in 2024), the penalty is generally $310 per failure, with a maximum penalty of $3,783,000.

In addition, employers that willfully ignore their filing obligations or fail to file electronically (if required) may be subject to a separate penalty ($280 per form for forms due in 2023; $310 per form for forms due in 2024) unless the employer can establish reasonable cause or otherwise received a hardship waiver. Previously, there was penalty relief for employers that made a good faith effort to comply with the ACA reporting requirements. However, that relief is no longer available for reports submitted in 2022 and beyond.

SUMMARY

The ACA requires most employers sponsoring group health plans to report certain plan coverage information to the IRS and to provide statements to employees. The Sections 6055 and 6056 reporting requirements facilitate the enforcement of the ACA employer mandate (and, prior to 2019, the federal individual mandate) and assist the federally facilitated and state-run health insurance marketplaces in making premium tax credit and cost-sharing subsidy determinations. Employers that are subject to ACA reporting requirements should familiarize themselves with the rules and establish standard operating procedures to handle the reporting. Employers should work closely with their benefits consultants, payroll service providers, and reporting vendors to ensure accurate and timely annual filing and distribution of ACA forms.

To discuss your employer mandate reporting requirements and other aspects of your employee benefits program, or for copies of NFP publications, contact your NFP benefits consultant. For further information regarding NFP's full range of consulting services, see **NFP.com**.

RESOURCES

Final Regulations on 6055 Reporting

Final Regulations on 6056 Reporting

U.S. Treasury Fact Sheet

Forms and Instructions

- **IRS Form 1094-B**
- **IRS Form 1095-B**
- **IRS Form 1094-C**
- **IRS Form 1095-C**
- **Instructions for IRS Forms 1094-B and 1095-B**
- **Instructions for IRS Forms 1094-C and 1095-C**
- **IRS FAQs on 6055 Reporting**
- **IRS FAQs on 6056 Reporting**

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