



# Health Care Reform

## LEGISLATIVE BRIEF

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## 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.

### OVERVIEW

TYPE OF REPORTING	AFFECTED EMPLOYERS	REQUIRED INFORMATION	EFFECTIVE DATE
<b>Code §6055</b> —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)	<b>Delayed until 2015</b> The first returns will be due in 2016 for coverage provided in 2015
<b>Code §6056</b> —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)	

### Guidance

On March 5, 2014, the Internal Revenue Service (IRS) released **two final rules** on these reporting requirements, which apply for calendar years beginning after **Dec. 31, 2014**. This date reflects a one-year delay provided in [IRS Notice 2013-45](#). However, the IRS is encouraging voluntary compliance for 2014. The IRS also released [Q&As on Section 6055](#) and [Q&As on Section 6056](#), which were updated in May 2015. In addition, the IRS released a separate set of [Q&As on Employer Reporting using Form 1094-C and Form 1095-C](#), on May 28, 2015.

On Feb. 8, 2015, the IRS released **final versions of forms and instructions** that employers will use to report under Sections 6055 and 6056 for 2014. **These forms are not required to be filed for 2014**, but reporting entities may voluntarily file them in 2015 for 2014 coverage.

On Sept. 17, 2015, the IRS released the following **final 2015 versions of the forms and instructions** that employers will use to report under Sections 6055 and 6056. On the same day, the IRS issued [Notice 2015-68](#) to provide additional guidance for purposes of Section 6055 reporting.

- [Form 1094-B](#) and [Form 1095-B](#) (and related [instructions](#)) will be used by entities reporting under **Section 6055**, including sponsors of self-insured group health plans that are not reporting as ALEs.
- [Form 1094-C](#) and [Form 1095-C](#) (and related [instructions](#)) will be used by ALEs that are reporting under **Section 6056**, and for combined reporting by ALEs that sponsor self-insured plans required to report under both Sections 6055 and 6056.

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The 2015 final forms remained unchanged from the 2015 draft versions. The 2015 final instructions were also largely unchanged from the 2015 draft versions, but provide clarifications on some questions. The final instructions also contain the following key provisions:

- **Extensions of time to file returns with the IRS and furnish statements to individuals** (finalized from draft versions);
- **A process to obtain waivers from the electronic filing requirement** (finalized from draft versions); and
- **Relief from separate Section 6055 reporting for many health reimbursement arrangements (HRAs)** (clarified from prior guidance and draft versions).

Also, on June 29, 2015, President Obama signed the [Trade Preferences Extension Act of 2015](#) into law, which **increases the penalties** for failure to file correct information returns or provide individual statements under either Section 6055 or Section 6056. **These changes are effective for information returns and individual statements required to be filed or provided after Dec. 31, 2015.**

## 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 6055, reporting entities will generally file Forms 1094-B (a transmittal) and 1095-B (an information return). 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. Entities that are reporting under both Sections 6055 and 6056 will file using a combined reporting method, using **Form 1094-C** and **Form 1095-C**.

ALEs that sponsor self-insured plans	ALEs that sponsor insured plans	Non-ALEs that sponsor self-insured plans	Non-ALEs that sponsor insured plans
Complete: <b>Form 1094-C</b> + <b>Both sections of Form 1095-C</b>	Complete: <b>Form 1094-C</b> + <b>The section of Form 1095-C addressing the information under Section 6056</b>	File: <b>Form 1094-B</b> + <b>Form 1095-B</b>	These employers are not required to report under either Section 6055 or Section 6056.
To report: (1) Information under Section 6055 about health coverage provided; and (2) Information under Section 6056 about offers of health coverage.	To satisfy the Section 6056 reporting requirements. These employers are not required to report under Section 6055.	To satisfy the Section 6055 reporting requirements. These employers are not required to report under Section 6056.	

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## DEADLINES FOR FILING WITH THE IRS AND FURNISHING STATEMENTS TO INDIVIDUALS

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 become effective in 2015.** The first returns will be due in 2016 for coverage provided in 2015.

On July 9, 2013, the IRS issued Notice 2013-45 to provide **transition relief for 2014** for Code Sections 6055 and 6056. Under the transition relief, employers are encouraged to voluntarily comply with the reporting requirements for 2014 (that is, by filing and furnishing Section 6056 returns and statements in early 2015). However, compliance is optional for 2014 and no penalties will be applied for failing to comply.

On Dec. 28, 2015, the IRS issued [Notice 2016-4](#) to **delay the due dates for filing and furnishing forms under Section 6055 and 6056.** The due date for furnishing forms to individuals has been extended from Feb. 1, 2016, to **March 31, 2016.** The due date for filing forms with the IRS has been extended from Feb. 29, 2016, to **May 31, 2016** (or, from March 31, 2016, to **June 30, 2016**, if filing electronically).

### *Deadlines for Filing with the IRS*

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 were required to be filed no later than **Feb. 29, 2016** (Feb. 28, 2016, being a Sunday), or **March 31, 2016**, if filed electronically.

However, on Dec. 28, 2015, the IRS issued [Notice 2016-4](#) to **delay the due dates for filing and furnishing forms under Section 6055 and 6056.** The due date for filing forms with the IRS has been extended from Feb. 29, 2016, to **May 31, 2016** (or, from March 31, 2016, to **June 30, 2016**, if filing electronically). **Filers are not required to submit any request or other documentation to the IRS to take advantage of the extended due dates provided by Notice 2016-4.**

The final instructions for 2015 provided that reporting entities may receive an **automatic 30-day extension of time to file** with the IRS by completing and filing [Form 8809, Application for Extension of Time To File Information Returns](#), by the due date of the returns. The form may be submitted on paper, or through the FIRE System either as a fill-in form or an electronic file. No signature or explanation is required for the extension. Under certain hardship conditions, employers could have also applied for an additional 30-day extension.

**Because the extensions provided in Notice 2016-4 apply automatically to all filers and are more generous than extensions for 2015 returns and statements that have already been requested by some filers, those requests will not be formally granted.** The previous provisions regarding extensions of time for filing information returns and furnishing statements (described above) will not apply to the extended due dates.

### *Deadlines for Furnishing to Individuals*

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) were required to be furnished no later than **Feb. 1, 2016** (Jan. 31, 2016, being a Sunday). Extensions may be available in certain circumstances.

However, on Dec. 28, 2015, the IRS issued [Notice 2016-4](#) to **delay the due dates for filing and furnishing forms under Section 6055 and 6056.** The due date for furnishing forms to individuals has been extended from Feb. 1, 2016, to **March 31, 2016.** **Filers are not required to submit any request or other documentation to the IRS to take advantage of the extended due dates provided by Notice 2016-4.**

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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.

However, the final instructions for 2015 provided that reporting entities may request an extension of time to furnish the statements to recipients by sending a letter to Internal Revenue Service, Information Returns Branch, Attn: Extension of Time Coordinator, 240 Murall Drive, Mail Stop 4360, Kearneysville, WV 25430. The letter must include:

- The filer's name, TIN and address;
- The type of return;
- A statement that extension request is for providing statements to recipients;
- A reason for delay; and
- The signature of the filer or authorized agent.

A request must have been postmarked by the date on which the statements are due to the recipients. If the request for an extension is approved, providers would have generally been granted a maximum of 30 extra days to furnish the recipient statements.

Because the extensions provided in Notice 2016-4 apply automatically to all filers and are more generous than extensions for 2015 returns and statements that have already been requested by some filers, **those requests will not be formally granted.** The previous provisions regarding extensions of time for filing information returns and furnishing statements (described above) will not apply to the extended due dates.

## 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 (similar to the process currently in place for the electronic furnishing of employee Forms W-2). The consent must specifically identify each form; an employee's consent to receive a Form W-2 electronically may not be considered a consent to also receive the employee statement under Sections 6055 or 6056 electronically. It is not sufficient for an entity to simply post the information on a website accessible to the individual (similar to the current process for furnishing SBCs), or to provide the information only upon request.

Electronic filing will be done using the ACA Information Returns (AIR) Program. [Pub. 5165](#), *Guide for Electronically Filing ACA Information Returns for Software Developers and Transmitters (Processing Year 2015)* provides very detailed technical information regarding standards for software developers and transmitters that plan to facilitate this electronic reporting for calendar year 2015 through the AIR System. To develop software for use with the AIR system, software developers, transmitters and issuers (providers filing their own Forms 1094-B and 1095-B) should use the guidelines provided in Pub. 5165 along with the Extensible Markup Language (XML) Schemas published on IRS.gov.

More information on the AIR Program is available on the [IRS website](#). The AIR System is expected to be available for production in the fall of 2015.

### ***Waiver of the Electronic Reporting Requirement***

The 2015 instructions include **a waiver from the requirement to file returns electronically.** To receive a waiver, reporting entities must submit [Form 8508](#), *Request for Waiver From Filing Information Returns Electronically*, at least 45 days before the due date of the returns. Reporting entities cannot apply for a waiver for more than one tax year at

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a time, and must reapply at the appropriate time for each year in which a waiver is required. Any approved waivers should be kept for the reporting entity's records only. A copy of an approved waiver should not be sent to the service center where paper returns are filed.

If a waiver for **original returns** is approved, any corrections for the same types of returns will be covered under the waiver. However, if original returns are submitted electronically, but the reporting entity wants to submit corrections on paper, a waiver must be approved for the corrections if the reporting entity must file 250 or more corrections.

Without an approved waiver, a reporting entity that is required to file electronically but fails to do so may be subject to a penalty of up to \$250 per return, unless it can establish reasonable cause. However, reporting entities can file up to 250 returns on paper; those returns will not be subject to a penalty for failure to file electronically.

## 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, which finalizes [proposed regulations](#) issued on Sept. 5, 2013. [Q&As on Section 6056](#) were also released in August 2014, and were updated in May 2015. A separate set of [Q&As on using Form 1094-C and Form 1095-C](#) were issued on May 28, 2015.

The IRS released final 2014 versions of the following forms, along with related [instructions](#), 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.

These forms and instructions are 2014 versions only. **These forms are not required to be filed for 2014**, but reporting entities may voluntarily file them in 2015 for 2014 coverage.

On Sept. 17, 2015, the IRS **released final 2015 versions of Forms [1094-C](#) and [1095-C](#)**, along with related [instructions](#). The 2015 final forms remained unchanged from the 2015 draft versions. The 2015 final instructions were also largely unchanged from the 2015 draft versions, but provide clarifications on some questions. The following minor changes were included in the 2015 draft (and subsequent final) versions of the Forms:

- Form 1095-C includes an additional field, titled "Plan Start Month." This new field is optional for 2015, but will be required for 2016 and beyond. For 2015, ALEs can choose to: (1) Add this field and provide plan year information; (2) Add this field and enter "00"; or (3) Leave this new field out (thus using the 2014 format).
- Form 1095-C includes a "Continuation Sheet" that filers will use if they need to report coverage information for more than six individuals.
- Form 1094-C moved Line 19 (regarding the authoritative transmittal) to be included in Part I. Line 19 was previously included as the first line of Part II.
- Form 1094-C allows information to be entered in the "All 12 months" box in Part III, column (b): Full-Time Employee Count for ALE Member (this box is no longer grayed).

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In addition, the IRS indicated that they intend to include two additional “Offer of Coverage” codes for 2016 and beyond. Although the “Offer of Coverage” codes will remain unchanged for 2015, the IRS plans to include these additional codes in 2016 and beyond that an employer would use, if applicable, to indicate that the employer’s offer of coverage to the spouse is a conditional offer.

## ***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 (called an Aggregated ALE Group). 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 any particular company individually does 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).

## *Reporting for Medium-sized ALEs*

The employer shared responsibility [final regulations](#) included transition relief delaying compliance for medium-sized ALEs for one year, until 2016. Medium-sized ALEs are those with at least 50 full-time employees (including full-time equivalents), but fewer than 100 full-time employees (including full-time equivalents).

**ALEs eligible for this transition relief will still report under Section 6056 for 2015.**

As part of the transition relief from the employer shared responsibility rules for medium-sized ALEs, the ALE must certify by checking a box on its Section 6056 transmittal form (Form 1094-C) for calendar year 2015 (that is, for the Section 6056 transmittal form that will be filed in 2016) that it meets the following eligibility conditions:

- The ALE **employs a limited workforce** of at least 50 full-time employees (including full-time equivalents), but fewer than 100 full-time employees (including full-time equivalents) on business days during 2014;
- Between Feb. 9, 2014, and Dec. 31, 2014, the ALE **does not reduce the size of its workforce or the overall hours of service** of its employees in order to satisfy the workforce size condition; and

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- During the coverage maintenance period (that is, the period ending Dec. 31, 2015, or the last day of the plan year that begins in 2015), the ALE **does not eliminate or materially reduce the health coverage**, if any, it offered as of Feb. 9, 2014.

ALEs with non-calendar year plans will also certify with regard to their 2015 plan year, including:

- The months of their 2015 plan year that fall in calendar year 2015, on the Section 6056 transmittal form for 2015 (that is, the form that will be filed in 2016); and
- The months of their 2015 plan year that fall in calendar year 2016, on the Section 6056 transmittal form for 2016 (that is, the form that will be filed in 2017).

The IRS noted that the delay for medium-sized ALEs is solely for the employer for purposes of the employer shared responsibility rules, and does not affect the employee's potential eligibility for the premium tax credit. Accordingly, **regardless of whether the employer is eligible for this delay, the Form 1095-C for each full-time employee must accurately reflect the health coverage offered to that employee (if any) during that period, including, if applicable, the required employee contribution.**

**Thus, reporting for medium-sized ALEs is *not* a simplified method of reporting.**

## *ALEs That Sponsor Self-Insured Plans*

ALEs that sponsor self-insured group health plans also are required to report information under Section 6055 about the health coverage they provide. The IRS and individuals will use the information provided under Section 6055 to administer the ACA's individual mandate.

These ALEs file with the IRS and furnish to employees the information required under both Sections 6055 and 6056 on a single form, using a combined reporting method. This combined reporting method is described in more detail below.

## *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. However, any employer that sponsors a self-insured health plan is required to report under Section 6055, even if the employer has fewer than 50 full-time employees.

## **Reporting Required for All Full-time Employees**

Under Section 6056, each ALE is required to report information about the health coverage, if any, offered to its full-time employees (and their dependents), **including whether an offer of health coverage was (or was not) made**. This requirement applies to all ALEs, regardless of whether they offered health coverage to all, none or some of their full-time employees. For each full-time employee, regardless of whether health coverage was offered to the employee, the ALE is required to file a return with the IRS and furnish a statement to the employee reporting:

- Whether an offer of health coverage was or was not made to the employee; and
- If an offer was made, the required information about the offer.

Therefore, even if an ALE does not offer coverage to any full-time employees, it must file returns with the IRS and furnish statements to each of its full-time employees to report information specifying that coverage was not offered.

An ALE is *not required* to file a Form 1095-C for an individual who, for all months of a calendar year, is either **not an employee of the ALE** or is in a **limited non-assessment period** (for example, an employee who was hired mid-year and then was in an initial measurement period that continued into the following year). However, for the months in which the employee was an employee of the ALE, he or she would be included in the total employee count reported

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on Form 1094-C. Also, if the employee enrolled in self-insured employer-sponsored coverage during the limited non-assessment period, the ALE must file a Form 1095-C for the employee to report coverage information for the year.

## ***Information Required to Be Reported on the IRS Return***

The ALE's return filed with the IRS must include the following information:

- The ALE's name, address and employer identification number (EIN);
- The name and telephone number of the ALE's contact person;
- A certification of whether the ALE offered to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage (MEC) under an eligible employer-sponsored plan, by calendar month;
- The months during the calendar year for which MEC under the plan was available;
- Each full-time employee's share of the lowest cost monthly premium for self-only coverage providing minimum value offered to that employee under an eligible employer-sponsored plan, by calendar month;
- The number of full-time employees for each month during the calendar year;
- The name, address (including country code) and Social Security number (SSN) or other taxpayer identification number (TIN) of each full-time employee during the calendar year and the months (if any) during which the employee was covered under the eligible employer-sponsored plan during the calendar year; and
- Any other information required by the IRS.

Most employer-sponsored health plans will qualify as MEC. The ACA broadly defines MEC to include both insured and self-insured group health plans, as well as plans with grandfathered status under the ACA. However, MEC does not include specialized coverage, such as coverage only for vision care or dental care, workers' compensation, disability policies or coverage only for a specific disease or condition.

Each ALE will also have to report the name, address and EIN of any third party reporting on behalf of the ALE and whether the ALE is a member of an Aggregated ALE Group. The final regulations do not require employers to report whether they expect to be an ALE the following year. Some of the information will be provided through the use of **indicator codes**, rather than detailed explanations or summaries. If multiple codes apply with respect to a full-time employee for a particular calendar month, the reporting format will accommodate the necessary codes.

## ***Information Required to Be Reported on the Employee Statement***

An ALE generally must furnish to each full-time employee a written statement showing the ALE's name, address and EIN, and the information required to be shown on the Section 6056 return with respect to the full-time employee (and his or her spouse and dependents).

Employers may truncate the TIN or SSN of an employee (or any family member of the employee receiving coverage) on any Form 1095-C statements furnished to employees, by showing only the last four digits of the TIN or SSN and replacing the first five digits with asterisks or Xs. Truncation is not allowed on forms filed with the IRS. In addition, an employer's EIN may not be truncated on any forms filed with the IRS or provided to individuals.

## ***Methods of Reporting***

The final rule provides:

- **A general method** that all ALEs may use for filing forms with the IRS and furnishing statements to full-time employees; and
- **Two alternative reporting methods** for eligible ALEs.

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If an ALE cannot use an alternative reporting method for certain employees, the ALE must use the general method for those employees. In any case, the alternative reporting methods are optional, so that an employer may choose to report for all of its full-time employees using the general method even if an alternative reporting method is available.

## *General Reporting Method*

As a general method, each ALE may satisfy the requirement to file a Section 6056 return with the IRS by filing:

- A transmittal on **Form 1094-C** for all of the returns filed for a given calendar year; and
- A separate employee statement on **Form 1095-C** for each full-time employee.

Substitute forms may be used, as long as they include all of the required information and comply with IRS procedures or other applicable guidance. Entities using substitute forms instead of the official IRS versions may develop substitute forms themselves or buy them from a private printer. [Publication 5223](#), *General Rules & Specifications for Substitute ACA Forms 1094-B, 1095-B, 1094-C, and 1095-C and Certain Other Information*, explains the requirements for the format and content of substitute statements to recipients. **Only forms that conform to the official form and the specifications in Publication 5223 are acceptable for filing with the IRS.** Employers may not request special consideration.

An ALE that maintains a self-insured plan also uses **Form 1095-C** to satisfy the reporting requirements under Section 6055. The Form 1095-C has separate sections to allow ALEs that sponsor self-insured plans to combine reporting to satisfy both the Section 6055 and 6056 reporting requirements, as applicable, on a single return. More information on combined reporting is available in the “Combined Reporting” section below.

The Section 6056 **employee statement** may be made by furnishing a copy of Form 1095-C for that full-time employee (or another form the IRS designates) or a substitute employee statement for that full-time employee (as long as it includes all of the required information and complies with IRS procedures or other applicable guidance). The employee statement is not required to include a copy of the transmittal form (Form 1094-C).

## *Alternative Methods*

The final rule provides two alternative methods of reporting under Section 6056 that are intended to minimize the cost and administrative tasks for employers. In certain situations, the alternative reporting methods may allow employers to provide **less detailed information** than under the general method. The two alternative reporting methods are:

- Reporting Based on Certification of Qualifying Offers (the Qualifying Offer Method); and
- Option to Report Without Separate Identification of Full-Time Employees if Certain Conditions Related to Offers of Coverage Are Satisfied (the 98 Percent Offer Method).

In addition, transition relief is available under the Qualifying Offer Method for 2015.

According to the IRS, in some circumstances, only some of the information required under the general method is necessary. Accordingly, the alternative reporting methods identify specific groups of employees for whom simplified alternative reporting would provide sufficient information. If an ALE is not eligible to use an alternative method of reporting with respect to one or more full-time employees, the ALE **must use the general method of reporting** for those employees. In addition, the alternative methods of reporting are all optional. An employer is not required to use any alternative reporting method, even if it is eligible, and may instead report the more detailed information under the general method of reporting.

## ***Combined Reporting***

The final rules under Sections 6055 and 6056 provide for combined reporting for employers that are subject to both reporting provisions (generally, ALEs that sponsor self-insured group health plans). To allow these ALEs to satisfy both reporting requirements on a single return, **Form 1095-C** has separate sections for reporting under Section 6055 and

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for reporting under Section 6056. More information on combined reporting is available in the “Combined Reporting” section below.

## REPORTING OF HEALTH COVERAGE FOR ISSUERS AND SELF-INSURED PLANS (CODE § 6055)

The ACA requires every health insurance issuer, sponsor of a self-insured health plan, government agency that administers government-sponsored health insurance programs and any other entity that provides minimum essential coverage (MEC) to file an annual return with the IRS reporting information for each individual who is provided with this coverage. Related statements must also be provided to individuals.

The IRS will use the information from the returns to implement the ACA’s individual mandate (that is, the requirement that individuals obtain acceptable health insurance coverage for themselves and their family members or pay a penalty). **The ACA’s individual mandate became effective in 2014.**

On March 5, 2014, the IRS released a [final rule](#) on the Section 6055 reporting requirements. This rule finalizes [proposed regulations](#) issued on Sept. 5, 2013. [Q&As on Section 6055](#) were also released in August 2014, and were updated in May 2015. The IRS released final 2014 versions of the following forms, along with related [instructions](#), that employers will use to report under Section 6055:

- [Form 1094-B](#), Transmittal of Health Coverage Information Returns; and
- [Form 1095-B](#), Health Coverage.

These forms and instructions are **2014 versions** only. **These forms are not required to be filed for 2014**, but reporting entities may voluntarily file them in 2015 for 2014 coverage.

On Sept. 17, 2015, the IRS **released final 2015 versions of Forms 1094-B and 1095-B**, along with related [instructions](#). The 2015 final forms remained unchanged from the 2015 draft versions. The 2015 final instructions were also largely unchanged from the 2015 draft versions, but provide clarifications on some questions. The 2015 draft and final Form 1095-B also include a “Continuation Sheet” that filers will use if they need to report coverage information for more than six individuals.

### ***Minimum Essential Coverage***

Under the Section 6055 reporting requirements, every person that provides MEC to an individual during a calendar year must report on the health coverage provided. MEC includes the following:

- Eligible employer-sponsored coverage, including self-insured plans, COBRA coverage and retiree coverage;
- Coverage purchased in the individual market (including a qualified health plan offered by an Exchange);
- Medicare Part A coverage and Medicare Advantage plans;
- Most Medicaid coverage;
- Children’s Health Insurance Program (CHIP) coverage;
- Certain types of veterans health coverage administered by the Veterans Administration;
- Most types of TRICARE coverage;
- Coverage provided to Peace Corps volunteers;
- Coverage under the Nonappropriated Fund Health Benefit Program;
- Refugee Medical Assistance supported by the Administration for Children and Families;

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- Self-funded health coverage offered to students by universities for plan or policy years that begin on or before Dec. 31, 2014 (for later years, sponsors of these programs may apply to HHS to be recognized as MEC);
- State high-risk pools for plan or policy years that begin on or before Dec. 31, 2014 (for later years, sponsors of these program may apply to HHS to be recognized as MEC); and
- Other coverage recognized by HHS as MEC.

Section 6055 reporting is not required for coverage that is not MEC. This includes coverage that qualifies as “excepted benefits,” such as stand-alone vision care or dental care, workers’ compensation and accident or disability policies. Thus, no reporting is required for health savings accounts (HSAs), coverage at on-site medical clinics or for Medicare Part B. However, Medicare Part A qualifies as MEC and is subject to reporting. Note that health flexible spending accounts (health FSAs) must satisfy certain requirements to qualify as excepted benefits. Beginning in 2014, health FSAs that do not qualify as excepted benefits will generally be prohibited under the ACA.

In addition, Section 6055 reporting is not required for arrangements that provide benefits in addition or as a supplement to MEC. The final regulations clarify that MEC is considered “**supplemental coverage**” not subject to reporting if it supplements a primary plan of the same plan sponsor or government-sponsored coverage (such as Medicare). Thus, providers are not required to report the following MEC that is supplemental to other MEC:

- Coverage that supplements a government-sponsored program, such as Medicare or TRICARE supplemental coverage; or
- Coverage of an individual in more than one plan or program provided by the same plan sponsor (the plan sponsor is required to report only one type of minimum essential coverage).

According to regulations, examples of supplemental coverage to which this rule may apply (and therefore do not require separate Section 6055 reporting) include health reimbursement arrangements (HRAs) and wellness programs that are an element of other MEC (such as wellness programs offering reduced premiums or cost-sharing under a group health plan).

Although the 2015 draft instructions indicated that separate Section 6055 reporting may be required for some HRAs, the final instructions include important clarifications on this issue, resolving this in favor of employers in many cases:

- An employer with a **self-insured major medical plan** and an HRA is required to report coverage under only one of the arrangements.
- An employer with an **insured major medical plan** and an HRA is not required to report HRA coverage if the individual is eligible for the HRA because he or she enrolled in the insured major medical plan.

However, an employer with an HRA must report the HRA coverage for any individual who is not enrolled in the employer’s major medical plan (for example, if the individual is enrolled in a group health plan of another employer, such as spousal coverage).

## **Entities Subject to Section 6055 Reporting**

Under the Section 6055 reporting requirements, every person that provides MEC to an individual during a calendar year must report on the health coverage provided. Reporting entities include:

Health insurance issuers	Self-insured plan sponsors
Government-sponsored programs	Other entities that provide MEC

To ensure complete and accurate reporting, Section 6055 reporting is required for **all covered individuals**. Reporting entities may use third parties to facilitate filing returns and furnishing statements to comply with Section 6055

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reporting requirements. However, these arrangements do not transfer the potential liability for failure to report. In contrast, a government employer that maintains a self-insured group health plan or arrangement may designate (in writing) another related governmental unit, agency or instrumentality as the person responsible for Section 6055 reporting, called a designated government entity (DGE).

## Health Insurance Issuers

Health insurance issuers are responsible for Section 6055 reporting for all insured coverage except:

- Coverage under certain government-sponsored programs (such as Medicaid and Medicare) that provide coverage through a health insurance issuer; and
- Coverage under QHPs through the individual market Exchange.

To avoid collecting duplicate or unnecessary information, issuers are not required to submit Section 6055 information returns for QHP coverage through an individual Exchange. The Exchange will provide the necessary information to the IRS and the individual. However, issuers must report on QHPs in the small group market enrolled in through the Small Business Health Options Program (SHOP), because Exchanges will not be reporting information on these plans.

The IRS also issued [Notice 2015-68](#) on Sept. 17, 2015, to indicate that it plans to issue proposed regulations related to Section 6055 reporting. These proposed regulations are expected to require health insurance issuers to report coverage in **catastrophic health insurance plans that were enrolled in through an Exchange**. Thus, beginning with coverage in 2016 (filing in 2017), health insurance issuers and carriers will report coverage in catastrophic health plans enrolled in through the Marketplace. For coverage in 2015 (filing in 2016), health insurance issuers and carriers are encouraged to report on coverage in catastrophic health plans.

## Self-insured Plan Sponsors

The plan sponsor is responsible for Section 6055 reporting for a self-insured group health plan. In general, the plan sponsor is the entity that establishes or maintains the plan. The **employer** is the plan sponsor for a plan established or maintained by a single employer. **Each participating employer** is the plan sponsor for a plan established or maintained by more than one employer (other than a multiple employer welfare arrangement). For a multiemployer plan, the plan sponsor is **the association, committee, joint board of trustees or other group of representatives** who establish or maintain the plan.

TYPE OF COVERAGE	PLAN SPONSOR
A self-insured group health plan maintained by a single employer	The employer
A plan maintained by more than one employer that is not a multiemployer plan (as defined in ERISA)	Each participating employer
A multiemployer plan (as defined in ERISA)	The association, committee, joint board of trustees or other group of representatives of the parties who establish or maintain the plan
A plan maintained solely by an employee organization	The employee organization
Any plan for which a plan sponsor is not identified above	The person designated by plan terms or, if no person is designated, each entity that maintains the plan

For purposes of identifying the employer, **the Code Section 414 employer aggregation rules do not apply**. Thus:

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- A self-insured group health plan or arrangement covering employees of related companies is treated as sponsored by more than one employer; and
- Each employer is required to report for its employees.

However, one member of the group may assist the other members by filing returns and furnishing statements on behalf of all members.

Most employers that sponsor self-insured group health plans are ALEs required to report under both Section 6056 and Section 6055. ALEs apply the rules under Section 6056 for identifying the reporting entities in a controlled group. Employers in controlled groups that are not ALEs, and reporting entities (such as issuers) that are not reporting as employers may:

- Report under Section 6055 as separate entities; or
- Choose one entity that may report for the group.

## Government-sponsored Programs

Governmental units that provide coverage under a government-sponsored program must also report under Section 6055. For a government-sponsored program, the entity responsible for reporting under Section 6055 is as follows:

TYPE OF COVERAGE	WHO MUST REPORT
Medicaid and CHIP coverage	The state agency that administers the program
Medicare, TRICARE, benefits administered by the Department of Veterans Affairs and benefits for Peace Corps volunteers	The executive department or agency of the governmental unit that provides the coverage
Health insurance coverage under a government-sponsored program (such as Medicaid, CHIP or Medicare) obtained through an issuer	The executive department or agency of the governmental unit that provides the coverage (and not the issuer)
The Nonappropriated Fund Health Benefits Program	The Secretary of Defense may designate the Department of Defense components that must report

## Required Filings

In general, a reporting entity that is reporting under Section 6055 as **health insurance issuers or carriers, sponsors of self-insured group health plans that are not reporting as ALEs, sponsors of multiemployer plans and providers of government-sponsored coverage** will report using **Form 1094-B and Form 1095-B**.

However, a reporting entity that is reporting under Section 6055 as **an ALE** will file under a combined reporting method, using **Form 1094-C and Form 1095-C**. As part of this combined reporting method, Form 1095-C will be used by ALEs to satisfy the Section 6055 and 6056 reporting requirements, as applicable.

Substitute statements that comply with applicable requirements may be used, as long as the required information is included. Entities using substitute forms instead of the official IRS versions may develop substitute forms themselves or buy them from a private printer. [Publication 5223](#), *General Rules & Specifications for Substitute ACA Forms 1094-B, 1095-B, 1094-C, and 1095-C and Certain Other Information*, explains the requirements for the format and content of substitute statements to recipients.

**Only forms that conform to the official form and the specifications in Publication 5223 are acceptable for filing with the IRS.** Reporting entities may not request special consideration.

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Written statements must also be provided to each responsible individual identified on the IRS return. A “**responsible individual**” is the person who (based on a relationship to the covered individuals, the primary name on the coverage or some other circumstances) should receive the statement. Generally, the statement recipient should be the taxpayer (tax filer) who would be liable for the individual mandate penalty for the covered individuals, if that person is known. A statement recipient may be:

- A parent, if only minor children are covered individuals
- A primary subscriber, for insured coverage;
- An employee or former employee, in the case of employer-sponsored coverage;
- A uniformed services sponsor, for TRICARE; or
- Another individual who should receive the statement.

Statements may, but are not required to, be provided to any other individual who is not the responsible individual. Individual statements may be made by furnishing to the responsible individual a copy of the IRS return (or a substitute statement that includes the required information).

## ***Information Required to Be Reported***

Section 6055 requires the reporting of several data elements that are not required by taxpayers for preparing their tax returns or by the IRS for tax administration. The return must include the following information:

- The name, address and EIN of the reporting entity;
- The name, address and TIN of the primary insured and each other individual covered under the policy or plan;
- For each covered individual, the months for which, for at least one day, the individual was enrolled in coverage and entitled to receive benefits; and
- Any other information required by the IRS.

In addition, if coverage is through an employer’s group health plan, the return must contain the following information:

- The name, address and EIN of the employer sponsoring the plan;
- Whether the coverage is a QHP enrolled in through the SHOP, and the SHOP’s unique identifier; and
- Any other information the IRS may require.

The individual statement must show:

- The phone number for the reporting entity’s designated contact person and policy number, if any; and
- The information required to be shown on the Section 6055 return for the responsible individual and each covered individual listed on the return.

## ***Requirement to Report the SSN or TIN***

Under Section 6055, reporting entities are required to report the SSN or other TIN for each covered individual. According to the IRS, reporting of TINs for all covered individuals is necessary to verify an individual’s coverage without the need to contact the individual.

However, if reporting entities are unable to obtain an SSN or TIN after making a reasonable effort to do so, the covered individual’s date of birth may be reported in lieu of an SSN or TIN. In this case, a reporting entity will not be

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subject to a penalty if it demonstrates that it properly solicits the SSN or TIN, but does not receive it. Under these rules, the reporting entity must make:

- An **initial solicitation** at the time the relationship with the payee is established. However, the reporting entity is not required to make this initial solicitation if it already has the payee's SSN and uses that SSN for all relationships with the payee.
- If the reporting entity does not receive the SSN, the first **annual solicitation** is generally required by Dec. 31 of the year in which the relationship with the payee begins (Jan. 31 of the following year, if the relationship begins in December).
- Generally, if the SSN is still not provided, a **second solicitation** is required by Dec. 31 of the following year.

If an SSN or TIN is still not provided, the reporting entity need not continue to solicit it. In addition, if the responsible individual is not enrolled in the coverage, reporting entities may, but are not required to, report the responsible individual's SSN or TIN.

Reporting entities may truncate the covered individual's SSN or TIN on any statements furnished to individuals, by showing only the last four digits of the SSN or TIN, and replacing the first five digits with asterisks (\*) or X's. However, truncation of the employer's EIN is not allowed on any forms filed with the IRS or provided to individuals.

## COMBINED REPORTING

In an effort to minimize burden and streamline the reporting process, while minimizing the need for employers and the IRS to build multiple systems to accommodate multiple forms, **the final regulations allow all ALEs to use a single combined form for reporting the information required under both Section 6055 and Section 6056.**

Under this combined reporting method, Form 1095-C will be used by ALEs to satisfy the Section 6055 and 6056 reporting requirements, as applicable.

- An ALE that sponsors a self-insured plan will complete both Sections of the combined Form 1095-C to report the information required under both Sections 6055 and 6056. Therefore, these ALEs will be able to use a single form to report information regarding whether an employee was covered.
- An ALE that provides insured coverage will also report on Form 1095-C, but will complete only the Section of Form 1095-C related to Section 6056.

Section 6055 reporting entities that are not ALEs or are not reporting in their capacity as employers (such as health insurance issuers, self-insured multiemployer plans and providers of government-sponsored coverage) will report under Section 6055 on Form 1095-B.

ALEs will also be providing only a single employee statement (with the Section 6056 information and, with respect to employers with a self-insured group health plan, Section 6055 information). Employers are permitted to mail to an employee in the same mailing one or more of the required information returns, such as the combined Section 6055 and Section 6056 employee statement and the Form W-2.

## ***Reporting for Nonemployees Enrolled in Self-insured Coverage***

The final instructions for Forms 1094-C and 1095-C include a new option for ALEs reporting information for non-employees (such as nonemployee directors, retirees or nonemployee COBRA beneficiaries), which allows employers to report employer-sponsored self-insured health coverage for nonemployees (and their family members) using either:

- Forms 1094-B and 1095-B; or
- Form 1095-C, Part III (note, though, that the Form 1095-C may only be used if the individual identified on Line 1 has a SSN).

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This option applies only for ALEs offering self-insured health coverage for any individual who enrolled in the coverage for one or more calendar months of the year, but was not an employee for any calendar month of the year, such as:

- A nonemployee director;
- A retired employee who retired in a previous year;
- A terminated employee receiving COBRA coverage who terminated employment during a previous year; and
- A nonemployee COBRA beneficiary.

A nonemployee does *not* include an individual who obtained coverage through the employee's enrollment, such as a spouse or dependent obtaining coverage when an employee elects family coverage. Under this new option, ALEs may report enrollment for these individuals using either: (1) Forms 1094-B and 1095-B; or (2) Form 1095-C, Part III (note, though, that the Form 1095-C may only be used if the individual identified on Line 1 has a SSN). If the Form 1095-C is used with respect to an individual who was not an employee for any month of the calendar year, Part II must also be completed by using Code 1G on Line 14 in the "All 12 Months" box (or the box for each month of the calendar year).

In the case of a nonemployee who enrolls in the coverage under a self-insured health plan, all family members who are covered individuals due to the individual's enrollment must be included on the same Form 1095-B or Form 1095-C as the individual who is offered, and enrolls in, the coverage.

## 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: (1) Failure to file correct information returns (under Code Section 6721); and (2) Failure to furnish correct payee statements (under Code Section 6722). However, penalties may be waived if the failure is due to reasonable cause and not to willful neglect. Penalties may be reduced if the reporting entity corrects the failure within a certain period of time. Also, lower annual maximums apply for entities that have average annual gross receipts of up to \$5 million for the three most recent taxable years.

On June 29, 2015, President Obama signed the [Trade Preferences Extension Act of 2015](#) into law, which **increased the penalties** for failure to file correct information returns or provide individual statements under either Section 6055 or Section 6056. **These changes are effective for information returns and individual statements required to be filed or provided after Dec. 31, 2015.** The increased penalty amounts are as follows:

Penalty Type	Per Violation		Annual Maximum		Annual Maximum for Employers with ≤\$5 Million in Gross Receipts	
	Old Amount	New Amount	Old Amount	New Amount	Old Amount	New Amount
General	\$100	<b>\$250</b>	\$1.5 million	<b>\$3 million</b>	\$500,000	<b>\$1 million</b>
Corrected within 30 days	\$30	<b>\$50</b>	\$250,000	<b>\$500,000</b>	\$75,000	<b>\$175,000</b>
Corrected after 30 days, but before August 1	\$60	<b>\$100</b>	\$500,000	<b>\$1.5 million</b>	\$200,000	<b>\$500,000</b>
Intentional disregard	\$250*	<b>\$500*</b>	None		N/A	

*\*For failures due to intentional disregard of the filing requirement, the penalty will be equal to the greater of either the listed penalty amount or 10 percent of the aggregate amount of the items required to be reported correctly.*

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## *Short-term Relief from Penalties*

The final regulations also include short term relief from penalties to allow additional time to develop appropriate procedures for data collection and compliance with these new reporting requirements. **For returns and statements filed and furnished in 2016 to report offers of coverage in 2015, the IRS will not impose penalties on reporting entities that can show they made good faith efforts to comply with the information reporting requirements.**

This relief is provided only for incorrect or incomplete information reported on the return or statement, including SSNs, TINs or dates of birth. No relief is provided for reporting entities that do not make good faith efforts to comply with these regulations or that fail to timely file an information return or statement.

Notice 2016-4 provides additional information on relief from penalties:

- Reporting entities that do not comply with the extended due dates are subject to penalties under Code Section 6721 or 6722. However, entities that do not meet the extended due dates are still encouraged to furnish and file, and the IRS will take this furnishing and filing into consideration when determining whether to decrease penalties for reasonable cause.
- The IRS will also take into account whether a reporting entity made reasonable efforts to prepare for reporting, such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the IRS or testing its ability to transmit information to the IRS.
- The IRS will take into account the extent to which the employer or other coverage provider is taking steps to ensure that it is able to comply with the reporting requirements for 2016.

## **MORE INFORMATION**

Please contact Ardent Solutions for more information on the Section 6055 and Section 6056 reporting requirements.

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