

Many employers are now required to file information returns with the Internal Revenue Service (IRS) and provide statements to their full-time employees about the health insurance coverage they offer. These reporting requirements will help the IRS determine whether businesses are in compliance with the ACA employer mandate and whether individuals are in compliance with the individual mandate. **The reporting requirements are effective for coverage provided on or after January 1, 2015, with the first information returns to be filed with the IRS and statements provided to individuals in early 2016.**

It is easy to get lost in the confusing numeric labels given to the ACA's reporting requirements. There is Section 6055 reporting and Section 6056 reporting — and each of these reporting requirements is accomplished on Internal Revenue Service Tax Form 1094-C, 1095-C, 1094-B or 1095-B. This guide will help explain what is generally required of employers with these new reporting requirements.

What are the two different types of reporting?

Code Section 6055 Reporting - “Minimum Essential Coverage Reporting”

- All employers, regardless of size, that offer minimum essential coverage (MEC) are required to report coverage information to the IRS and to provide statements to “responsible individuals” (policy holders).
- For employers who sponsor a plan purchased from a health insurance carrier – the health insurance issuer or carrier will complete this reporting requirement on behalf of employer (using forms 1094-B and 1095-B).
- For employers of self-funded plans – the sponsor (employer) will complete this reporting requirement (using forms 1094-B and 1095-B or 1095-C if also an Applicable Large Employer (ALE) – *see information below to find out if you are an ALE*).
- Primary purpose is to enforce the Individual Mandate.

Code Section 6056 Reporting – “Employer Mandate Reporting”

- Applies to ALEs subject to the employer mandate.
- Employer completes the reporting and furnishes a statement to each employee regardless of whether plan is fully insured or self-funded (Form 1094-C and Form 1095-C).
- A fully insured large employer will complete parts 1 & 2 on Form 1095-C.
- A self-funded large employer will complete parts 1, 2, & 3 on Form 1095-C.
- Primary purpose is to enforce the Employer Mandate; and
- The individual statement is to be used by employees to determine eligibility for the individual premium tax credit.

What is required on forms 1094-C and 1095-C?

Form 1094-C, accounts for each of the following per 2015 calendar month:

- Full-time employees
- Total headcount
- Whether MEC was offered
- Whether an applicable 4980H “Safe Harbor” was used

Form 1095-C, accounts for each of the following per 2015 calendar month:

- Proof of offer of coverage (with code)
- Employee's share of the lowest cost monthly premium
- Whether an applicable 4980H "Safe Harbor" was used

A written statement to each covered employee, which includes:

- The employer's name, address and contact information
- The information for the employee on the return being filed

When do you need to file forms 1094-C and 1095-C?

To be in compliance with the ACA employer mandate:

- Your employees must receive their copies of Form 1095-C by March 31, 2016.
- The IRS must receive your Forms 1094-C and 1095-C by May 31, 2016 (June 30, 2016, if filed electronically).

Who needs to comply with the ACA employer mandate?

The ACA considers you an Applicable Large Employer (ALE) if your company has at least 50 full-time (FT) employees or a combination of full-time (FT) and part-time (PT) employees that equal at least 50. Compliance with the ACA employer mandate in 2015 is based on the size of your company in 2014.

If your company had 100+ FT employees in 2014:

In the 2015 plan year, you are required to comply with the ACA employer mandate. You must: Offer health coverage to all or at least 95 percent of your FT employees (and their dependents up to age 26) and report this information to the IRS on the new tax forms, 1094-C and 1095-C, in 2016.

If your company had 50-99 FT employees in 2014:

The ACA employer mandate applies to you in the 2015 plan year. *However*, companies that qualify for transition relief will not be subject to penalties for lack of compliance in 2015. Penalties *will* be enforced for employers with at least 50 employees in the 2016 plan year. Mid-sized large employers still must file Form 1094-C and Form 1095-C for 2015, but they will indicate on the form that they are not subject to the mandate.

If your company had 1-49 employees in 2014:

You are not an ALE, and you are not required to comply with the ACA employer mandate nor do you have to report information on the 1094-C and 1095-C in 2016.

How many FT employees do you have?

You will need to determine whether your company had 50+ FT or full-time equivalent (FTE) employees during the 2014 calendar year.

- A FT employee works an average of 30+ hours per week or 130 hours per calendar month.
- Part-time employees' hours are used to calculate whether the employer mandate applies to your company.
- **Example:** 40 FT employees working 30 hours per week + 20 PT employees working 15 hours per week = 50 FTEs.
- **Special considerations:** Teachers and other education employees are considered full-time employees, even if they do not work a traditional year-round schedule. However, seasonal employees, such as holiday retail workers, are not considered full-time employees.

What happens if your company does not comply with the ACA employer mandate and reporting requirements?

There are two possible penalties under the Employer Shared Responsibility provisions (section 4980H(a) penalty and section 4980H(b) penalty). An employer can be subject to only one penalty, not to both of them.

- If an ALE does not offer MEC to at least 95 percent (70 percent for 2015) of its full-time employees (and their dependents), it could be assessed a penalty equal to the number of its full-time employees for the year (minus up to 30 employees, or for 2015 only, 80 employees) times \$2,000 if at least one full-time employee purchases health coverage on the exchange/marketplace with premium tax credits. Only full-time employees (not full-time equivalents) are counted for purposes of calculating the penalty. Example: A business with 50 Full-timers, two of whom are subsidized, would pay \$40,000 = \$2,000 x (50 – 30). (IRC 4980H(a) Penalty.)
- If an ALE does not offer affordable health coverage (employee's contribution does not exceed 9.5 percent of their household income) that provides minimum value (the plan covers, on average, 60 percent of an employee's medical expenses), the employer could be subject to the lesser of \$3,000 per full-time employee receiving subsidy or \$2,000 per full-time employee (minus up to 30 employees, or for 2015 only, 80 employees). (IRC 4980H(b) Penalty.)

An ALE that fails to comply with the information reporting requirements may be subject to the general reporting penalty provisions (Section 6721 and Section 6722).

- If an ALE does not provide written informational statements to each employee, they may be subject to a penalty of up to \$250 for each missing statement.
- If an ALE fails to file Forms 1094-C and 1095-C with the IRS, they may be subject to a penalty of up to \$250 per year for each delinquent or incorrect return.

The penalties already are in effect for the 2015 plan year for companies with 100+ FT employees. **For companies with 50-99 employees, penalties are effective for the plan year beginning on January 1, 2016.**

For additional information regarding these reporting requirements, please see IRS guidance: [Questions and Answers about Information Reporting by Employers on Form 1094C and Form 1095C](#) and [Questions and Answers on Information Reporting by Health Coverage Providers \(Section 6055\)](#).

This guide is provided for informational purposes only and does not constitute legal advice. It contains only a summary of the applicable legal provisions and does not purport to cover every aspect of any particular law, regulation, or requirement. Depending on the specific facts and location of any situation, there may be additional or different requirements. Please use this document as a guide and not as a definitive description of your compliance obligations.