



October 2015

IMPORTANT: New Affordable Care Act Reporting Requirements

The Affordable Care Act (ACA) imposes significant information responsibilities on employers starting with the 2015 year.

The new information reporting system is similar to the current Form W-2 reporting system in that an information return (Form 1095-B, Health Coverage, or Form 1095-C, Employer-Provided Health Insurance Offer and Coverage) will be prepared for each applicable employee and these returns will be filed with the IRS using a single transmittal form (Form 1094-B or 1094-C). Electronic filing is required if the employer files at least 250 returns. Employers must file these returns annually by February 28 (March 31 if filed electronically). A copy of the Form 1095 must be given to the employee by January 31 and can be provided electronically with the employee's consent. Employers will be subject to penalties of up to \$500 per return for failing to timely file the returns or furnish statements to employees and the IRS.

In addition to the employer reporting requirements, Forms 1095-B and 1094-B will be filed by insurance companies to report individuals covered by insured employer-sponsored group plans.

The filing requirements affect "applicable large employers," (ALE) which are those that had, on average, at least 50 full-time employees (including full-time equivalent employees) during the preceding calendar year. A special rule applies for 2015 and any consecutive six-month period during 2014 can be used rather than the full 12 month status. Full-time employees are those who work, on average, at least 30 hours per week. Employers with common ownership (members of a controlled group or affiliated service group) are treated as one employer for determining ALE status. Self-employed individuals, such as sole proprietors, LLC members and 2% or more S corporation shareholders are not included in the employee count. Forms 1095-C and 1094-C will be required by applicable large employers if the employer offers an insured or self-insured health plan or does not offer any group plan.

The Internal Revenue Service will use the information reported to determine whether employees are subject to the new shared responsibility penalty for not having health coverage or are eligible for premium tax credits on insurance purchased through the health insurance marketplace. The information will also allow the IRS to determine if an employer is liable for a shared responsibility penalty because there are 50 full-time employees or full-time equivalents and the employer does not offer affordable, minimum value health coverage to all of its full-time

employees as defined by the ACA provisions. Health coverage is affordable if the amount that the employer charges an employee for self-only coverage does not exceed 9.5 percent of the employee's Form W-2 wages, rate of pay, or the federal poverty level for the year. A health plan provides minimum value if the plan is designed to pay at least 60 percent of the total cost of medical services for a standard population.

Employers with self-insured health plans are subject to the reporting requirements regardless of the employee count. Self-insured employers with 50 or more full-time or full-time equivalent employees (ALE) in the prior calendar year are required to file the "C-series" forms. Employers with less than 50 full-time or full-time equivalent employees file the "B-series" forms.

It is imperative that you discuss the reporting requirements with both the payroll vendor and the health plan's insurer to identify the parties responsible for data collection and form preparation. Many payroll vendors are offering preparation services to comply with these new reporting requirements at an additional cost. We highly recommend that you contact your payroll provider as soon as possible to take advantage of this service if you are required to issue these forms. Some service providers have implemented deadlines for signing up for this service. There are also non-payroll provider companies that are offering this service, as well.

Other actions employers should take include:

- Review the instructions for Forms 1094-C and 1095-C and, if applicable, the instructions for Forms 1094-B and 1095-B, along with the forms. IRS Publication 5196, Questions and Answers about Information Reporting by Employers on Form 1094-C and 1095-C, contains additional guidance about the reporting requirements.
- Visit the IRS website (<http://www.irs.gov/Affordable-Care-Act>) for interactive tools, questions and answers, and other information about reporting requirements.
- Ensure that systems are in place during 2015 to collect the needed data for the forms due in early 2016.
- Develop procedures for determining and documenting each employee's full-time or non-full-time status by month
- Develop procedures to collect information about offers of health coverage and health plan enrollment by month
- Review ownership structures of related companies and perform a controlled/affiliated service group analysis to determine applicable large employer group members

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