

ACA OVERVIEW

Provided by Preferred Benefits Services Agency Inc.

Employer Reporting of Health Coverage —Code Sections 6055 & 6056

The Affordable Care Act (ACA) created reporting requirements under Internal Revenue Code (Code) Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees.

This ACA Overview describes the Section 6055 and Section 6056 reporting requirements under the ACA. Please contact Preferred Benefits Services Agency Inc. for more information on Section 6055 and Section 6056 reporting.

LINKS AND RESOURCES

- On March 5, 2014, the Internal Revenue Service (IRS) released two final rules on [Section 6055](#) and [Section 6056](#), which apply for calendar years beginning after Dec. 31, 2014. This date reflects a one-year delay provided in [IRS Notice 2013-45](#).
- The IRS also released Q&As on [Section 6055](#) and on [Section 6056](#), as well as a separate set of [Q&As on Forms 1094-C and 1095-C](#).
- Forms [1094-B](#) and [1095-B](#) (and related [instructions](#)) for use to report under Section 6055.
- Forms [1094-C](#) and [1095-C](#) (and related [instructions](#)) for use to report under Section 6056.
- [Notice 2015-68](#) and additional [proposed rules](#) provide additional guidance for purposes of Section 6055 reporting.

This ACA Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

HIGHLIGHTS

REPORTING ENTITIES

- Section 6055 applies to health insurance issuers, self-insured plan sponsors, government agencies that provide government-sponsored coverage and other providers of minimum essential coverage.
- Section 6056 applies to applicable large employers—the employers subject to the employer shared responsibility rules (those with at least 50 full-time employees, including full-time equivalents).

PURPOSE OF REPORTING

This reporting is intended to:

- Promote transparency in health plan coverage and costs; and
- Provide the IRS with information to administer the employer shared responsibility rules and individual mandate.



OVERVIEW

| TYPE OF REPORTING | AFFECTED EMPLOYERS | REQUIRED INFORMATION |
|---|---|---|
| Code §6055 —Health coverage reporting 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) |
| Code §6056 —Applicable large employer (ALE) health coverage reporting | Applicable large employers (those with at least 50 full-time employees, including full-time equivalent employees) | Terms and conditions of health plan coverage offered to full-time employees (helps the IRS administer the ACA’s employer shared responsibility penalty) |

Filing Requirements

Under both Sections 6055 and 6056, each reporting entity must file all of the following with the IRS:

- A separate **statement** for each individual who is provided minimum essential coverage (MEC) under Section 6055, or for each of the ALE’s full-time employees under Section 6056; 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 reporting under both Sections 6055 and 6056 will use a combined reporting method by filing **Forms 1094-C and 1095-C**.

| ALEs that sponsor Self-insured Plans | ALEs that sponsor Fully Insured Plans | Non-ALEs that sponsor Self-insured Plans | Non-ALEs that sponsor Insured Plans |
|---|--|--|---|
| Complete: Form 1094-C + Parts I, II and III of Form 1095-C | Complete: Form 1094-C + Parts I and II of Form 1095-C | File: Form 1094-B + Form 1095-B | These employers are not required to report under either Section 6055 or Section 6056. |
| To report: <ul style="list-style-type: none"> • Information under Section 6055 about health coverage provided; and • Information under Section 6056 about offers of 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. | |

Substitute Statements

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.** Entities may not request special consideration.

DEADLINES FOR FILING WITH THE IRS AND FURNISHING STATEMENTS TO INDIVIDUALS

The Code Sections 6055 and 6056 reporting requirements took effect in 2015. The first returns were due in early 2016 for coverage provided in 2015.

Deadlines for Filing with the IRS

Forms must be filed with the IRS annually, no later than **February 28 (March 31, if filed electronically)** of the year following the calendar year to which the return relates. Due to a delay in IRS [Notice 2016-4](#), for the 2015 calendar year, returns were required to be filed no later than May 31, 2016, or June 30, 2016, if filed electronically. For the 2016 calendar year, returns were required to be filed no later than Feb. 28, 2017, or March 31, 2017, if filed electronically. The IRS did not extend the due date for filing 2016 calendar year returns with the IRS (in 2017).

The IRS also has not extended the due date for filing 2017 calendar year returns with the IRS (in 2018). Therefore, for the 2017 calendar year, returns must be filed by **Feb. 28, 2018, or April 2, 2018 (March 31, 2018, being a Saturday), if filed electronically.**

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.

Deadlines for Furnishing to Individuals

Each reporting entity must also furnish statements annually to each individual who is provided MEC (under Section 6055), and each of the ALE's full-time employees (under Section 6056). Individual statements are due on or before **January 31** of the year immediately following the calendar year to which the statements relate. Due to a delay in IRS [Notice 2016-4](#), for the 2015 calendar year, individual statements were required to be furnished no later than March 31, 2016.

For the 2016 calendar year, IRS [Notice 2016-70](#) extended the due date for furnishing 2016 Forms 1095-B and 1095-C to individuals, from Jan. 31, 2017, until March 2, 2017. The extension applied automatically to all reporting entities.

For the 2017 calendar year, individual statements were required to be furnished by Jan. 31, 2018. However, the IRS has extended the due date for furnishing 2017 Forms 1095-B and 1095-C to individuals. Specifically, [Notice 2018-06](#) **extended the due date for furnishing the 2017 Forms 1095-B and 1095-C to individuals for an additional 30 days, from Jan. 31, 2018, until **March 2, 2018**.**

The extension applies automatically and does not require the submission of any request or other documentation to the IRS. In view of this automatic extension, the rules allowing the IRS to grant extensions of time of up to 30 days to furnish Forms 1095-B or 1095-C will not apply to the extended due date. Also, because the 30-day extension of the due date to furnish applies automatically, and is as generous as the permissive 30-day extensions of time to furnish 2017 information statements under Section 6056 that have already been requested by some reporting entities in submissions to the IRS, the IRS will not formally respond to those requests.

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, extensions may be available in certain circumstances. 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 be postmarked by the date on which the statements are due to the recipients. If the request for an extension is approved, reporting entities will generally be granted a maximum of 30 extra days to furnish the recipient statements.

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.

Electronic filing is done using the ACA Information Returns (AIR) Program. IRS [Publication 5165](#), *Guide for Electronically Filing ACA Information Returns for Software Developers and Transmitters* provides very detailed technical information regarding standards for software developers and transmitters that plan to facilitate this electronic reporting through the AIR System. More information on the AIR Program is available on the [IRS website](#).

Waiver of the Electronic Reporting Requirement

A **waiver from the requirement to file returns electronically** is available in certain circumstances. To receive a waiver, reporting entities must submit [Form 8508](#), *Request for Waiver From Filing Information Returns Electronically*. Entities are encouraged to submit Form 8508 at least 45 days before the due date of the returns, but no later than the due date of the returns. The IRS does not process waiver requests until January 1 of the calendar year the returns are due.

Reporting entities cannot apply for a waiver for more than one tax year at 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 \$260 per return (as adjusted each year), 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 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 to its full-time employees. The IRS uses the information provided on the information returns 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 employer shared responsibility rules generally took effect on Jan. 1, 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.

ALEs will use the following forms 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 Returns*; and
- Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*.

Affected Employers

The Section 6056 reporting requirements apply to 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. An employee's full-time status for this purpose is determined under either the look-back measurement method or the monthly measurement method, as described in the employer shared responsibility [final rules](#).

Section 6056 applies to all employers that are ALEs, regardless of whether coverage is offered to full-time employees, and regardless of whether the ALE 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 Section 6056, 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 (and FTE) employees, and together will be an ALE (called an Aggregated ALE Group). When the combined total of full-time (and FTE) employees meets the threshold, each separate company (or ALE member) is separately subject to the Section 6056 reporting requirements, even if any particular company individually does not employ enough employees to meet the 50-full-time-and-FTE-employee threshold.

However, each ALE (and each ALE member) 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 statements to its full-time employees**, using its own employer identification number (EIN).

ALEs That Sponsor Self-Insured Plans

ALEs that sponsor self-insured group health plans are also required to report information to the IRS and provide individual statements to covered individuals under Section 6055 about the health coverage they

provided during the year. 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

Non-ALE 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 (and FTE) employees during the prior calendar year are not subject to these reporting requirements. However, any employer that sponsors a self-insured health plan is required to report under Section 6055, even if it has fewer than 50 full-time (and FTE) 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 must 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 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 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, by calendar month;
- The number of full-time employees for each month during the calendar year;
- The name, address and Social Security number (SSN) or other taxpayer identification number (TIN) of each full-time employee and the months (if any) during which he or she 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 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. Some of this information will be provided through the use of **indicator codes**, rather than detailed explanations or summaries.

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).

Methods of Reporting

For purposes of reporting under Section 6056, there is:

- **A general method of reporting** 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.

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

Under the general method of reporting, each ALE must file:

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

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.

Alternative Reporting Methods

Two alternative methods of reporting are available under Section 6056, which are intended to minimize the cost and administrative tasks for ALEs. The alternative reporting methods may allow ALEs 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 some circumstances, only some of the information required under the general method is necessary. Thus, 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 reporting method for one or more full-time employees, the ALE **must use the general method** of reporting for those employees. Also, the alternative reporting methods are all optional. An ALE 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.

Combined Reporting

Employers that are subject to both reporting provisions (generally, ALEs that sponsor self-insured group health plans) will use a combined reporting method. 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 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)

Section 6055 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 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.**

Reporting entities will generally use **Form 1094-B, Transmittal of Health Coverage Information Returns**, and **Form 1095-B, Health Coverage**, to report under Section 6055 (unless the reporting entity is required to report under both Sections 6055 and 6056 using the combined method).

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 and retiree coverage;
- Coverage purchased in the individual market (including an Exchange qualified health plan);
- 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;
- Self-funded health coverage offered to students by universities and state high-risk pools 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); and
- Other coverage recognized by HHS as MEC.

Section 6055 reporting is not required for coverage that is not MEC, including 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 “**supplemental coverage**,” if an individual is covered by more than one MEC plan or program, where one of the plans or programs supplements the other “primary” coverage. This rule is intended to eliminate duplicative reporting of an individual’s MEC in situations where there is reasonable certainty that the provider of the “primary” coverage will report.

Proposed regulations would clarify reporting for supplemental coverage by providing two rules:

1. **If an individual is covered by more than one MEC plan or program provided by the same reporting entity, reporting is required for only one of the plans or programs.** For example, if an individual is enrolled in a self-insured group health plan provided by an employer and also is enrolled in a self-insured health reimbursement arrangement (HRA) provided by the same employer, the employer is required to report only one type of coverage for that individual.
2. **Reporting is not required for an individual’s MEC to the extent that the individual is eligible for that coverage only if he or she is also covered by other MEC for which Section 6055 reporting is required.** This applies to eligible employer-sponsored coverage only if the supplemental coverage is offered by the same employer that offered the eligible employer-sponsored coverage for which Section 6055 reporting is required. For example, reporting is not required for MEC if that coverage is offered only to individuals who are also covered by other MEC (including Medicare, TRICARE, Medicaid or certain employer-sponsored coverage) for which reporting is required. In the case of eligible employer-sponsored coverage, if an employer offers both an insured group health plan and an HRA for which an employee is eligible only if enrolled in the insured group health plan, and an employee enrolls in both, the employer is not required to report the employee’s coverage under the HRA. However, if an employee is enrolled in his or her employer’s HRA and in a spouse’s non-HRA group health plan, the employee’s employer is required to report for the HRA, and the employee’s spouse’s employer (or the health insurance issuer or carrier, if the plan is insured) is required to report for the non-HRA group health plan coverage.

Entities Subject to Section 6055 Reporting

Under Section 6055, 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 under Section 6055. 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: (1) Coverage under certain government-sponsored programs (such as Medicaid and Medicare) that provide coverage through a health insurance issuer; and (2) Coverage under QHPs through the Exchange. To avoid collecting duplicate or unnecessary information, issuers are not required to report under Section 6055 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.

In addition, proposed regulations would require health insurance issuers to report coverage in **catastrophic health insurance plans that were enrolled in through an Exchange**, beginning for 2017. However, the 2017 instructions for Forms 1094-B and 1095-B provided that, for coverage in 2016 (filing in 2017) AND coverage in 2017 (filing in 2018), issuers and carriers are encouraged (but not required) to voluntarily report on catastrophic health plan coverage. Beginning with coverage in 2018 (filing in 2019), health insurance issuers and carriers may be required to report coverage in catastrophic health plans enrolled in through the Exchange.

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 aggregation rules do not apply**. Thus:

- 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, an 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 Forms 1094-B and 1095-B.**

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

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 name, address and EIN of the reporting entity;
- The name, address and TIN of the responsible individual;
- If coverage is through an employer’s group health plan, the name, address and EIN of the employer sponsoring the plan;
- The name and TIN (or birthdate) of each individual covered under the policy or plan, and the months for which, for at least one day, each individual was enrolled in coverage; and
- Any other information required by the IRS.

The individual statement must show the phone number for the reporting entity’s designated contact person, 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 subject to a penalty if it demonstrates that it properly solicits the SSN or TIN, but does not receive it.

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, **ALEs will 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 all sections (Parts I, II and III) of Form 1095-C to report the information required under both Sections 6055 and 6056. Therefore, these ALEs will 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 sections of Form 1095-C related to Section 6056 (Parts I and II).

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 plan sponsors and providers of government-sponsored coverage) will report under Section 6055 on Forms 1094-B and 1095-B.

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

Reporting for Nonemployees Enrolled in Self-insured Coverage

At the employer's option, ALEs may 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 (but only if the individual identified on Line 1 has an SSN or TIN).

If 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).

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. 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:

- Failure to file correct information returns (under Code Section 6721); and
- 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.

The [Trade Preferences Extension Act of 2015](#) increased the base penalties under Section 6055 and Section 6056 to **\$250 per violation**, up to an **annual maximum of \$3 million**. These changes took effect for information returns and individual statements required to be filed or provided after Dec. 31, 2015. In addition, for information returns and individual statements required to be filed or provided after 2014, the base penalties are subject to annual inflationary increases.

The adjusted penalty amounts are:

| PENALTY TYPE | PER VIOLATION | | ANNUAL MAXIMUM | | | |
|---|---------------|-----------|----------------|-------------|-------------|-------------|
| | 2016 | 2017-2019 | 2016 | 2017 | 2018 | 2019 |
| For Returns Due in: | | | | | | |
| General | \$260 | \$260 | \$3,178,500 | \$3,193,000 | \$3,218,500 | \$3,282,500 |
| Corrected within 30 days | \$50 | \$50 | \$529,500 | \$532,000 | \$536,000 | \$547,000 |
| Corrected after 30 days, but before Aug. 1 | \$100 | \$100 | \$1,589,000 | \$1,596,500 | \$1,609,000 | \$1,641,000 |
| Intentional disregard* | \$520 | \$530 | None | | | |

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, as follows:

| PENALTY TYPE | PER VIOLATION | | ANNUAL MAXIMUM FOR EMPLOYERS WITH ≤\$5 MILLION IN GROSS RECEIPTS | | | |
|---|---------------|-----------|--|-------------|-------------|-------------|
| | 2016 | 2017-2019 | 2016 | 2017 | 2018 | 2019 |
| For Returns Due in: | | | | | | |
| General | \$260 | \$260 | \$1,059,500 | \$1,064,000 | \$1,072,500 | \$1,094,000 |
| Corrected within 30 days | \$50 | \$50 | \$185,000 | \$186,000 | \$187,500 | \$191,000 |
| Corrected after 30 days, but before Aug. 1 | \$100 | \$100 | \$529,500 | \$532,000 | \$536,000 | \$547,000 |
| Intentional disregard* | \$520 | \$530 | N/A | | | |

**For failures due to intentional disregard of the filing requirement, the penalty is 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.*

Extension of Good-faith Transition Relief from Penalties for 2017

Notice 2018-06 also extends transition relief from penalties for providing incorrect or incomplete information to reporting entities that can show that they have made good-faith efforts to comply with the Sections 6055 and 6056 reporting requirements for 2017 (both for furnishing to individuals and for filing with the IRS).

This relief applies to missing and inaccurate taxpayer identification numbers and dates of birth, as well as other information required on the return or statement. No relief is provided for reporting entities that:

- Do not make a good-faith effort to comply with the regulations; or
- Fail to file an information return or furnish a statement by the due dates (as extended).

In determining good faith, the IRS will take into account whether a reporting entity made reasonable efforts to prepare for reporting the required information to the IRS and furnishing it to individuals (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 also take into account the extent to which the reporting entity is taking steps to ensure that it will be able to comply with the reporting requirements for 2018.