



Information Reporting by Applicable Large Employers (§6056 Reporting)

Proposed IRS Regulation
78 FR 54996 (September 9, 2013)

This proposed regulation applies only to large employers (50 or more employees) who are required to report information about their group health plans to IRS and to employees.

Purpose of §6056:

- Employers report to IRS on compliance with §4980H and the coverage they offer (or don't offer) to employees
 - §4980H is effective beginning January 1, 2014. IRS Notice 2013-45 provides transitional relief for 2014. So the initial §6056 report to IRS is not due until 2016 and will cover the 2015 calendar year.
- Employers give a report to employees so that the employees can determine if they can claim a 36B premium tax credit.
 - Report to employees due by January 31 each calendar year
 - Note: Under §5000A, individuals must maintain minimum essential coverage (MEC) or pay an individual penalty
- Civil penalties apply if an employer fails to meet these requirements. Penalties can be waived if the failure is due to reasonable cause and not to willful neglect

ALE Member: means applicable large employer, including a member of an aggregated group (i.e., control group). This summary generally refers to employer rather than ALE Member.

General Method for Reports to IRS and to each Employee

Note: Employers are expected to use this method for reporting. Some simplified reporting methods under consideration would be optional.

- A. Information Reporting to the IRS
 - a. A separate return is required for each full-time employee with a transmittal form
 - b. Form 1094-C (transmittal form) and Form 1095-C (an employee statement)
- B. Information Required to be Reported (to IRS) and Furnished (to employee)
 - a. Name, address and employer EIN, name and phone number for employer's contact person, and calendar year for which information is reported
 - b. Certification on whether the employer offers full-time employees (and their dependents) a group health plan (GHP) with minimum essential coverage (MEC)
Show this information for each month in the calendar year



- c. Number of full-time employees for each month in the calendar year
 - d. For each full-time employee, the months during the calendar year for which coverage was available
 - e. For each full-time employee, the employee's share of the lowest cost monthly premium for self-only coverage that has MEC and was offered to employee by calendar month
 - f. Name, address and taxpayer ID for each full-time employee during the months in the calendar year, if any, that the employee was covered under the GHP
- C. The following does not need to be reported:
- a. Length of any waiting periods
 - b. Employer's share of the total allowed costs of benefits provided under the plan
 - c. The monthly premium for the lowest-cost option in each of the enrollment categories, such as self-only or family coverage. (Only the lowest cost, self-only option is relevant for reporting requirements)
 - d. The months in which an employee's dependents are covered under the plan. (Not relevant to affordability or MEC.)
- D. The following information is expected to be requested by IRS, probably through an indicator code
- a. Whether the coverage offered to employees and dependents meets minimum value and whether the employ
 - b. Total number of employees by calendar month
 - c. Whether the employee's effective date of coverage was affected by a waiting period
 - d. The months, if any, when the employer was not conducting business
 - e. If the employer expects to not be an ALE Member the following year (e.g., for control group situations where a subsidiary is expected to spin off)
 - f. Whether the employer is part of a controlled group
 - g. The name, address & ID of the appropriately designated entity that is reporting on behalf of a governmental unit, if this applies
 - h. If the employer is a contributing employer to a multiemployer plan, whether it's full-time employees are eligible to participate in the multi-employer plan
 - i. Name, address & ID for the administrator of the multiemployer plan, if the administrator is completing the report. But must also include the employer's information
- E. Indicator Codes for Information about Particular Full-time Employees Furnished to the Employee
- a. Whether MEC meeting minimum value was offered to: (i) employee only, (ii) employee & dependents only, (iii) employee & spouse only, or (iv) employee, spouse & dependents



- b. Whether coverage was not offered to the employee and (i) employee was in a waiting period, (ii) employee was not full-time, (iii) the employee was not employed during that particular month, or (iv) no other code or exception applies
 - c. Coverage was offered to the employee for the month although employee wasn't full-time during that month
 - d. The employer met one of the affordability safe harbors with respect to the employee
- F. §6056 Statements to Full-time Employees: may be provided to employee using a code on the W-2 form
- G. Filing deadlines:
- a. §6056 returns to IRS are due by February 28 (or March 31, if employer files electronically). The first return is due for the 2015 calendar year and must be filed by March 1, 2016 (Feb 28, 2016 is a Sunday)
 - b. §6056 statements to employees are due by February 1, 2016 (January 31, 2016 is a Sunday). The first statement will cover the 2015 calendar year
 - c. NOTE: No exceptions are made for employers with non-calendar year (i.e., fiscal year) plans because this requirement ties into the tax year which is calendar-year based
- H. Manner of Filing
- a. Electronic filing with IRS is required if employer has more than 250 returns (i.e., more than 250 employees)
 - i. Transmitter Control Code: provided by IRS; is required for electronic filing
 - b. Paper filing is allowed, but electronic filing is preferred, if employer has less than 250 returns
- I. Combined Reporting
- a. Self-insured groups may be able to use this method. IRS asking for comments on this proposal
 - b. Self-insured groups are subject to §6051, §6055 (insurance provider reporting), & §6056 (employer reporting)
- J. Simplified Method of Reporting: proposed by IRS
- a. Form W-2: add a letter code to show coverage information. Employers using this method would not have to give employees the 6056 statement. The codes show:
 - i. Minimum value coverage was offered to (i) employee, (ii) employee & dependents but not spouse, (iii) employee & spouse but not dependents, (iv) employee, spouse & dependents; or
 - ii. Employee was (v) offered coverage that was not minimum value or (vi) not offered coverage
 - iii. A code showing coverage was affordable if annual employee-only cost is \$800 or less. The \$800 amount is less than 9.5% of the federal poverty line for a single individual.



- b. Employer certifies that it offers coverage to potentially all full-time employees. This method means employers wouldn't have to identify all full-time employees prior to filing a §6056 return
 - c. Self-insured groups that offer coverage with no employee contribution. Employer would file only the §6055 return and a use the W-2 codes
 - d. Voluntarily report §6056 elements during or prior to the year of coverage: IRS wants comments on ways to design such a reporting method
 - e. Reporting for employees potentially ineligible for the premium tax credit: highly paid employees are presumed to have household incomes exceeding 400% of FPL and so the §6056 statement information would be irrelevant: IRS wants comments
 - f. Combinations of simplified reporting: whether employers could use different simplified methods for different employees
- K. Person Responsible for §6056 Reporting
- a. Governmental Units: they may designate another person, including another governmental unit, to do reporting.
 - i. The designee doing the reporting on behalf of the ALE member (i.e., gov't unit) is liable for any penalties for failure to comply with the reporting requirements
 - ii. Designee must report its name, address & EIN on the §6056 report
 - b. ALE Members participating in multi-employer plans: bifurcated approach: (i) one return would pertain to full-time employees eligible to participate in the multi-employer plan, and (ii) another return would pertain to the remaining full-time employees
 - c. §6056 Reporting facilitated by third parties
 - i. The contracts must say that the third parties are not liable for (i) the §6056 reporting penalties or (ii) §4980H potential liability of the ALE member
 - ii. This option seems to be for employers that are part of a control group under §414 or third party administrators (TPA's)

Do you have questions about the information in this paper? Would you like to know more about this important topic?

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