

The Affordable Care Act (ACA) added two new sections to the Internal Revenue Code to assist the government in administering the requirements of the individual mandate, the employer mandate, and premium tax credits (subsidies) offered through state and federal marketplace programs. These two new code sections are:

- 6055 Reporting of Health Insurance Coverage (individual mandate), and
- 6056 Certain Employers Required to Report on Health Insurance Coverage (employer mandate).

The forms used to report under these new code sections are Forms 1094-B and 1095-B (individual mandate) and Forms 1094-C and 1095-C (employer mandate). The following questions and answers provide general information about the reporting requirement and specific questions from HORAN's *ACA Reporting Requirements* seminar. A recorded version of the seminar is also available as a compliment to this document. If you have further questions regarding ACA reporting please contact your HORAN representative.

Basics of the ACA Reporting Requirements

Q: Who must report under the Affordable Care Act (ACA)?

A: Reporting is required by all Applicable Large Employers (ALE) and plan sponsors of self-funded health plans.

Q: Who must report under section 6055 (Individual Mandate Minimum Essential Coverage Reporting)?

A: Anyone who provides minimum essential coverage (MEC) to an individual must report to the IRS and provide a statement to all individuals enrolled in the plan. This includes insurance issuers (insurance carriers) for insured coverage, plan sponsors of self-insured group health plans, and government sponsored programs.

Fully Insured Plans: *Your insurance carrier will provide a statement 1095-B to plan participants to comply with this reporting requirement.*

Self-Insured Plans: *You will provide this information to plan participants on a combined reporting form 1095-C to comply with both the reporting requirements of the individual and employer mandate.*

Q: Who is the plan sponsor that must report under Section 6055?

A: For a self-funded health plan that is maintained by a single employer, the employer is the plan sponsor. For a plan maintained by more than one employer that is not a multiemployer plan (defined by ERISA), the plan sponsor is each participating employer. For a plan that is a multiemployer plan, the plan sponsor is the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintain the plan.

Q: Who must report under section 6056 (Employer Mandate Applicable Large Employer Reporting)?

A: All applicable large employers subject to the Affordable Care Act's (ACA) employer mandate are required to report under section 6056 and provide a form 1095-C to all full-time employees.

To determine who is a full-time employee that should receive a Form 1095-C under Section 6056, there are two different methods an employer may choose. An employer may use either the "monthly" method or the "look-back" safe harbor method. If you choose the monthly method, an employee is considered full-time if they work 130 or more hours in a month. The monthly method is generally only a viable option for employers with primarily full-time employees working set schedules every week.

The look-back safe harbor method allows an employer to look at an employee's work history to determine full-time status. An employer may choose a period of 3-12 months to measure the employees historic work hours to determine if they are full-time and eligible for health coverage in the future. Under this method an employee who averages 30 or more hours per week over the designated amount of time or "look-back" (3-12 months) is considered to be a full-time employee.

Q: What is an applicable large employer (ALE)?

A: An applicable large employer is an employer that has an average of 50 or more full-time equivalent employees during the preceding calendar year. The calculation for each month is: $\text{full-time employees} + (\text{part-time employee hours for the month}/120) = \text{full-time equivalent employees}$.

This means that employers may have less than 50 full-time employees but due to the amount of hours worked by the part-time employee population, an employer may have 50 or more full-time equivalent employees for purposes of complying with the ACA.

Q: If two entities fall below 50 employees separately but in aggregate are considered a large employer, does that company become an applicable large employer (ALE) group or controlled group?

A: Companies with common ownership or that are otherwise related under certain rules of section 414 of the Internal Revenue Code are generally combined and treated as a single employer for determining applicable large employer (ALE) status. If the combined number of full-time employees and full-time equivalent employees for the group is 50 or more and there is enough common ownership under IRS rules, then each employer in the group is part of an ALE group and subject to the employer shared responsibility provisions, even if separately the employers would not be ALEs. For further help in determining whether or not your companies are a controlled group, we recommend contacting your legal or tax advisors. For assistance in determining whether or not you are an applicable large employer, please contact your HORAN account representative.

Q: Are seasonal employees counted?

A: If an employer is trying to determine applicable large employer status, seasonal employees working 120 days or fewer per year may be excluded, if the employer is over 50 full-time equivalents (FTE's) for 120 days or fewer per year due to the inclusion of the seasonal employees.

If an employer is trying to determine whether or not seasonal employees must be offered coverage, it depends on the method you are using to determine full-time employee status. If an employer is using the monthly method, seasonal employees working 130 hours or more per month must be offered coverage for that month. Employers using the look-back safe harbor method of full-time status determination may measure a seasonal employee's work hours for up to a year to determine whether or not they averaged 30 or more hours per week. An employee is only considered seasonal under the look-back safe harbor if individuals are hired into the same position at the same time every year for a period of six months or less.

Reporting Forms and Completion

Q: What information is required under Section 6055 and 6056?

A: Section 6055 requires reporting of an individual's enrollment in minimum essential coverage (MEC) and requires the following information:

- *Name, address and SSN of covered employees, spouses and dependents*
- *Months of coverage for each individual*
- *General employer information*

Section 6056 requires reporting on the health coverage being offered by an employer and requires the following information:

- *Number of full-time employees by month*
- *Number of total employees by month*
- *Employees share of lowest cost premium*

Q: How can an employer determine if the coverage they are offering is affordable under the ACA?

A: Coverage is considered to be unaffordable if an employee's share of the premium coverage would cost the employee more than 9.5% of his/her household income. Employers will generally not know their employees' household incomes and for that reason employers may choose one of three safe harbor methods to calculate affordability based off of an employee's income. If one of the three safe harbor methods is met, coverage for that individual will be determined to be affordable.

The three affordability safe harbor methods include: (1) W-2 wages, (2) hourly rate of pay, and (3) the federal poverty level. An employer would look at the employee's share of the premium cost and use one of the three methods to determine if the employee's premium share is less than or equal to 9.5% of the employee's W-2 wages, rate of pay (hourly), or the federal poverty level. Coverage will be deemed affordable so long as coverage is affordable using one of the three prescribed safe harbor methods. An employer may not choose on an individual basis which of the three affordability methods to use. Once an affordability method is chosen, it must be used for entire groups or classifications of employees. If you have further questions regarding which affordability method may be most beneficial for your organization, please contact your HORAN representative.

Q: What Forms are required for both fully-insured and self-funded health plans?

A: Applicable large employers (ALE) and fully insured: Are responsible for Forms 1094-C and 1095-C Parts I and II

Applicable large employers (ALE) and self-insured: Are responsible for Forms 1094-C and 1095-C Parts I, II, and III

Small employers and self-insured: Self-funded health plan is responsible for 1094-B and 1095-B. Small employers and fully insured: Do not have a filing requirement. Your insurance carrier will provide a 1095-B to all enrolled employees.

Q: For a fiscal year plan, how does reporting change when an employer is fully-insured for 6 months and self-insured for 6 months in one calendar year?

A: ACA reporting is based on the calendar year regardless of plan or policy year. If you are an applicable large employer (ALE), you are responsible for reporting Forms 1094-C and 1095-C for all 12 months of the year. During the time you are fully-insured, you must complete Parts I and II (Your insurer will provide the information contained in Part III to employees on a Form 1095-B). During the time you are self-funded you must complete Parts I, II, and III of the 1095-C.

Q: If an employer changes carriers in 2015, will both carriers send out Form 1094-B?

A: Each carrier will be responsible for reporting for the months the employer was fully-insured by that carrier.

Q: Which employees must an ALE member provide Form 1095-C?

A: An ALE must provide and file Form 1095-C for each employee who was a full-time employee of the ALE member. Additionally, an ALE member that operates a self-insured health plan must file Form 1095-C for non-full-time employees or non-employees who enroll in health coverage. (Note: a self-funded employer also has the option of reporting enrollment of non-full-time and non-employees enrolled in coverage on Form 1095-B.).

Q: Which forms go to the IRS and which go to an employee?

A: Forms 1094 are a transmittal to the IRS and Forms 1095 are a statement to plan participants. Further, the "B" Forms relate to the individual mandate of minimum essential coverage (MEC) and "C" Forms are related to the employer mandate of health coverage offers.

Form Filing and Distribution

Q: What are employees supposed to do with the 1095-B when they receive it?

A: The 1095-B may be kept for record keeping purposes for that employee, their spouse, and/or dependents. Both the 1095-B and Part III of the 1095-C (if the plan is self-funded) are proof for the employee that they had minimum essential coverage under the individual mandate. Eventually, employees may be required to submit a copy of this form to the Internal Revenue Service with their individual 1040 tax filing.

Q: When is reporting due for employers?

A: The information reporting requirements are effective for coverage provided by an employer in 2015 and employers will file information returns with the IRS on February 29, 2016, for those filing paper returns or March 31, 2016, for electronic filers. Employers will provide a statement to employees by February 1, 2016. Ongoing, employers must provide statements to plan participants by January 31st, paper returns must be filed with the IRS by February 28th, and electronic returns must be filed by March 31st.

Q: Must an organization furnish the employee statements to the full-time employees electronically or may it be hand delivered?

A: The regulations permit employers to furnish the statement to employees electronically, but it is not required. Employers may distribute the 1095-C to individuals through hand delivery, first class mail, or electronic delivery. If employers distribute the 1095-C electronically, they must receive consent from the employee and reference the 6056 return in the consent. For employers who choose website posting as the means of electronic delivery, the employee must be notified of the posting, the employer must disclose how to access the posting, and the posting must remain available until October 15th of the year following the applicable reporting year. If you have further questions on electronic distribution ask your HORAN representative for additional information on electronic distribution rules.

Q: When will the final 2015 IRS reporting forms be finalized?

A: The IRS released the final 2015 reporting forms on Thursday September 17, 2015. You may access the forms on the IRS website or use the links below.

[Form 1095-B](#) [Form 1095-C](#) [Form 1094-B](#) [Form 1094-C](#)

Q: When would an employer owe an employer shared responsibility penalty?

A: An ALE will be liable for an employer shared responsibility penalty only if the employer does not offer health coverage or the offer of coverage is to fewer than 95% of its full-time employees and dependents, and at least one full time employee receives a premium tax credit when applying for coverage in a federal or state run exchange. Another way an employer is liable for the employer shared responsibility

penalty is if the employer offers health coverage to at least 95% of its full-time employees, but the coverage was either unaffordable or did not provide minimum value, and at least one employee received a premium tax credit for health coverage from the federal or state run exchange.

Q: May an employer or health coverage provider hire a third party to fulfill the provider's reporting responsibilities?

A: Yes. Reporting arrangements between employers, health care providers, and other parties are not prohibited. Be aware that entering into a reporting arrangement does not transfer responsibility or potential liability for failure to report information and furnish statements.

Q: How do you file electronic or paper forms with the IRS without help from a third-party?

A: For all employers trying to file electronically, Forms 1094 and 1095 must be filed with the "Affordable Care Act Information Return" system also known as "AIR". The IRS encourages all entities to file electronically.

An organization filing electronically must register with the IRS to receive login information, submit an application to transmit information to the IRS, and designate responsible officials within each organization to be accountable for filing and testing the AIR system in a test run. The process of signing up through the "AIR" system is time consuming and should be started as soon as possible to guarantee your organization will be able to report electronically by March 31, 2016. Employers may subscribe for [Quick Alerts](#) from the IRS on the AIR system and register using the [e-Service Registration](#) to receive login information.

Only employers with less than 250 Form 1095 filings may use paper filing and it must be done no later than February 28, 2016.

Q: How can HORAN help if my organization is internally collecting data to report?

A: HORAN can provide an excel template to assist with compiling the necessary data to report on the 1095-C, however, the spreadsheet is based on the 2014 forms and instructions. The 2015 forms were recently released and it is unclear when the template will be updated to match the 2015 final forms. As soon as a finalized template is produced, HORAN will make it available to all employers that are interested. For employers with less than 250 1095-C forms to file, the employer may report paper forms. The spreadsheet cannot populate the forms. If filing electronically, the employer will need to register through the Affordable Care Act Information Return (AIR) system. It will be up to the employer to format the data to comply with the IRS file layout.

Reporting Code Questions

Q: If an employer selects a safe harbor other than the rate of pay affordability safe harbor, what code should be reported when the employee does not enroll in the plan?

A: If the employee does not enroll because they were not offered coverage or because coverage was unaffordable, Line 16 must be left blank. If the employee was offered affordable coverage and chose not to enroll, the employer may choose one of three affordability safe harbors to apply to all similarly situated employees. The employer may certify that the employee only contribution to single coverage for the lowest cost option that meets minimum value is 9.5% or less than the mainland federal poverty level (code 2G), rate of pay (code 2H), or W-2 wages (code 2F).

Q: If an employer offers family coverage to all employees regardless of whether they are single or not, do you put code 1E in Part II, line 14 since family coverage is being offered?

A: Correct. You should report code 1E in Part II, line 14, if coverage was available to employees, spouses, and dependents. You should report who coverage is available to regardless of the level of coverage the employee actually elects.

Q: What are the applicable codes for an employee who comes on the plan because of a spouse losing coverage?

A: There are no specific codes for that particular scenario. You should report that you made an offer of coverage in that corresponding month and use the code that matches the type of coverage offered.

Q: Does an employer have to fill in the cost of the plan for union employees?

A: The 1095-C instructions do not provide any exemptions for employers with union employees. Employers are required to report the cost of coverage if coverage was offered unless reporting under the qualifying offer transition relief method. However, employers who contribute to multiemployer plans (Taft-Hartley plans) on behalf of employees may report code 1H (no offer of coverage) on Line 14 of the 1095-C, leave Line 15 blank, and claim multiemployer plan transition relief on Line 16 using code 2E.

Q: If COBRA is offered, but not elected, why is code 1H reported as it was depicted in the reporting seminar?

A: An offer of COBRA continuation coverage is not considered an offer of coverage. An offer of COBRA continuation coverage that is made to a former employee upon termination of employment should not be reported as an offer of coverage on line 14. For a terminated employee, code 1H (no offer of coverage) should be entered for any month for which the offer of COBRA continuation coverage applies.

An offer of COBRA continuation coverage that is made to an active employee (for instance, an offer of COBRA continuation coverage that is made due to a reduction in the employee's hours that resulted in

the employee no longer being eligible for coverage under a plan) is reported in the same manner, using the same code as an offer of that type of coverage to any other active employee.

General Employer Seminar Questions

Q: Using the look-back safe harbor method, if an employee has qualified for coverage during the previous 12-month measurement period but is currently working less than 30 hours per week, is the employee reported as part-time?

A: The look-back safe harbor method allows an employer to look at an employee's work history to determine full-time status. In this scenario, once an employee has already qualified as a full-time employee based on their historic work hours during the 12-month "look-back period", they are reported as being full-time for a corresponding 12-month "stability" period. This means that even though the employee's hours have changed, if an individual has already qualified for coverage and is in a "stability" period (period of coverage) their status of full-time may not be changed until they have completed another measurement period confirming they are no longer working 30 or more hours per week.

Q: If an employer does not contribute toward spouse or family coverage and contributes to only employee coverage, does that change the MEC values?

A: The ACA requires that minimum essential coverage be provided to employees and dependent children. Spousal coverage is not required, though insurance law in some states may require spousal coverage. Who coverage is offered to does not impact plan affordability.

A plan is affordable if the contribution to coverage is 9.5% or less than the individual's adjusted household income or one of three IRS safe harbors. For purposes of employer reporting under the ACA, coverage must only be affordable based on the lowest cost option that meets minimum value based on single coverage only. Coverage does not need to be affordable based on the coverage elected by the employee.

Q: For Line 15 on Form 1095-C, if we base the employee premium contributions on each individual salary, do we need to calculate the cost of single HDHP coverage based on each person's salary?

A: Yes. In this scenario you need to report the employee contribution to single coverage for that individual based on their salary. If you offer multiple plan options, you must report the cost of single coverage for the individual based on the lowest cost plan option that meets minimum value. If the employee elects anything other than single coverage, you should still report the cost of single coverage.

Q: If premiums are withheld two times per payroll period, how would an employer report the premium amount?

A: The employer should report the monthly employee contribution for single coverage of the lowest cost plan option that meets minimum value on Line 15. If contributions are based on a bi-weekly payroll

schedule, the employer should divide the yearly employee contributions by 12 and report that number on Line 15 of the 1095-C.

Q: If enrollment is offered mid-month would you report coverage as being offered for a partial month?

A: No. An offer of coverage is considered to be made for a month only if health coverage is available for every day of that calendar month.

Q: If a dependent only elects COBRA is the employer required to report that on a separate Form 1095?

A: Fully-insured plans are not required to report non full-time employee COBRA participants. The insurer will report coverage for the dependent during COBRA continuation on Form 1095-B. COBRA participants must only be reported by employers sponsoring self-funded plans. If a dependent only elects COBRA continuation coverage under a self-funded plan, the employer should provide the dependent a 1095-C or report dependent enrollment on Form 1095-B.

Q: If COBRA is elected, do we report the actual COBRA premium for the elected coverage or the COBRA premium for single coverage in lowest cost plan?

A: If COBRA is elected by an individual who is still an active employee, you should report the COBRA premium for single coverage of the lowest cost plan that meets minimum value. If COBRA is elected by an individual who is a terminated employee, but was a full-time employee for a portion of the year, you do not need to report a cost on Line 15 because an offer of COBRA coverage is not considered an offer of coverage for a terminated employee.

Q: If an employer is fully-insured, do they complete Section I and II of 1095-C for a divorced spouse who elects COBRA?

A: If an employer is fully-insured, dependents who elect COBRA on their own do not receive a 1095-C from the employer. These individuals will receive Form 1095-B from the insurer.

Q: As a fully insured employer, if an employee gets a divorce, is the employer required to report on Form 1095 for the former spouse if they elect COBRA?

A: If an employee experiences a divorce during the year, the employer is not required to provide a 1095-C to the former spouse. A 1095-C or 1095-B must only be provided by employers sponsoring a self-funded plan to reflect the former spouse's coverage under the plan if they choose to continue under COBRA.

Q: How do you report on someone receiving severance pay?

A: Individuals receiving severance are not generally considered employees, therefore, you would report someone receiving severance the same as you would any other employee who terminates employment

during the year. If the individual was not employed during the calendar year reporting period, there is nothing to report unless you offer a self-funded plan and must report the individual's enrollment in the plan.

Q: How do you report retirees, over 65 years old who are working full-time and enrolled in the employer's health insurance?

A: An individual working full-time enrolled in health insurance is not truly a retiree. Coverage for these individuals must be reported on Form 1095-C. Additionally, employers must report any non-employee (including retirees) enrolled in a self-funded health plan providing minimum essential coverage on Form 1095-C or Form 1095-B.

Q: Are employers required to report on newborns in the first 30 days if they are not enrolled by the employee in the health plan?

A: If you offer a self-funded plan, you do not need to report dependents that are not enrolled in your plan.

Alternate Reporting Methods

Q: What is the Qualifying Offer Method?

A: This is an alternate reporting method where the employer certifies that the health care coverage being offered by the employer to all employees who that are receiving an offer of coverage, meets the following criteria (qualifying offer criteria):

- *Minimum value coverage;*
- *Affordable coverage that is less than or equal to 9.5% of the mainland Federal Poverty Level for employee only coverage; and*
- *Coverage is available to employee, spouse, and dependents*

The benefit of using this method is the employer is not required to report employee contributions and safe harbor codes on Lines 15 and 16 on form 1095-C. In addition, fully-insured employers may provide a general summary statement to the employees about their health care coverage rather than an individual 1095-C. However, the 1095-C must still be provided to the IRS and self-insured employers must still provide either the 1095-C or a 1095-B to all enrolled plan participants.

Employers should mark Box A on Line 22 of the 1094-C if electing to use the qualifying offer reporting method.

Q: What is the Qualifying Offer Method Transition Relief?

A: For 2015 only, this relief is available to employers who made a qualifying offer (see below for a description of qualifying offer) to 95% or more of full-time employees. It allows employers to avoid

reporting employee contributions and safe harbor codes. Additionally, it allows fully-insured plans to provide a general statement to employees pertaining to health coverage rather than the 1095-C, but the plan is still required to report the 1095-C to the IRS. Self-funded employers must still provide a 1095-C or 1095-B to all enrolled plan participants.

If an employer uses the qualifying offer method transition relief, the employer reports the qualifying offer on Line 22, Box B on Form 1094-C. On the Form 1095-C on Line 14 you would chose Code 1I for months the employee did not receive a qualifying offer and Code 1A for months an employee did receive a qualifying offer.

Q: What constitutes a qualifying offer?

A: A qualifying offer is an offer of coverage from the employer to all employees, spouse, and dependents that meets minimum value coverage and is considered affordable (9.5% of the 2015 Federal Poverty Level) for employee only coverage.

Q: What is the difference between code 1A (Qualifying Offer) and 1E (Offer of Minimum Value Coverage to Employee and at least minimum essential coverage Spouse and Dependents)?

A: An employer can only use code 1A indicating a qualifying offer only if the employer is choosing qualifying offer transition relief on Line 22 of the 1094-C (transmittal form). Additionally, a qualifying offer must mean that the cost of single coverage is less than or equal to 9.5% of the mainland federal poverty level and minimum essential coverage is made available to spouses and dependents as well as employees. If the employer has a spousal waiver, there is some question as to whether or not the employer can choose the qualifying offer method. Last, choosing the qualifying offer reporting method only means that the employer can send a generic summary statement to employees rather than an individual 1095-C and that the cost of coverage does not need to be reported on Line 15. The full 1095-C must still be reported to the IRS. Additionally, the relief only prevents a self-funded employer from needing to report the cost of single coverage on Line 15. A self-funded employer must distribute the full 1095-C to the IRS and to plan participants.

Code 1E indicates that minimum essential coverage meeting minimum value was provided to the employee and that minimum essential coverage was offered to spouses and dependents. Whether or not to use Code 1A or 1E depends on the reporting method you choose.

Q: What is Section 4980H Transition Relief and how is it reported?

A: There are two types of Section 4980H transitional relief, the type of relief that is received under this method is based upon the number of employees of the employer. To qualify, an employer must have not done any of the following after 02/09/2014:

- Change their plan year
- Eliminate or reduce coverage
- Reduce workforce or workforce hours

If an employer with 50-99 employees qualifies for 4980H Transition Relief, then reporting on health coverage offered in 2015 is required but for informational purposes only. Meaning if an employer files with the IRS indicating this transitional relief, penalties should not apply based on health coverage offered in 2015 and reported in 2016. To report this transitional relief an employer would indicate it in Part II, Line 22, Box C on Form 1094-C, which needs to be marked, if not penalties will apply. Additionally, Code A is reported on Part III, Line 23, column E.

If an employer with 100 or more employees qualifies for 4980H Transition Relief, then reporting on health coverage offered in 2015 is required, but the employer's potential penalty calculations will be more favorable. The employer penalty calculation will be reduced by the employer's number of full-time employees less a total of 80 employees as opposed to 30 employees. Penalties will still be applicable when warranted and unlike transitional relief for employers with 50-99 employees, this reporting will not be solely for informational purposes and penalties may apply.

Penalties:

Q: What are the penalties for failure to report?

A: Penalties for failure to report are applicable per return and per individual statement. If one statement is overlooked often two penalties apply – one for failure to provide the report to the IRS and one for failure to provide the statement to the individual.

- *Incorrect returns (per return) are \$250*
- *Incorrect returns if corrected within 30 days (per return) are \$50*
- *Penalty for incorrect returns if corrected by August 1 (per return) are \$100*
- *Penalty for intentionally disregarding to file timely and corrected returns are \$500*
- *Maximum penalty per calendar year is \$3,000,000*
- *Maximum penalty per calendar year if corrected within 30 days is \$500,000*
- *Maximum penalty per calendar year if corrected by August 1 is \$1,500,000*

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