

Health Care Reform Management Alert Series



IRS Proposes Reporting Requirements for Plan Sponsors Issue 72

By Joy Sellstrom, Ben Conley and Jeff Arnold

This is the seventy-second issue in our health care reform series of alerts for employers on selected topics in health care reform. (Our general summary of health care reform and other issues in this series can be accessed by clicking [here](#).) This series of Health Care Reform Management Alerts is designed to provide a more in-depth analysis of certain aspects of health care reform and how it will impact your employer-sponsored plans.

On September 9, 2013, the Department of Treasury and the Internal Revenue Service (IRS) published proposed regulations addressing two new reporting requirements under the Affordable Care Act:

- **6055 Report:** Section 6055 of the Internal Revenue Code (IRC) imposes a new reporting requirement on providers of minimum essential health coverage. This reporting requirement is intended to collect information for purposes of the individual mandate and applies to health insurance issuers, sponsors of self-insured health plans, governments, and other persons that provide minimum essential coverage to individuals.
- **6056 Report:** Section 6056 of the IRC imposes a new reporting requirement on “applicable large employers” that are subject to the employer shared responsibility requirement under the Affordable Care Act (ACA). This reporting requirement is intended to collect information about compliance with the “employer mandate” and requires employers to report to the IRS and to full-time employees information about the health care coverage they have offered.

As reported in previous management alerts (Issues [67](#) and [69](#) which can be obtained here), the reporting requirements under the ACA have been delayed for one year until the 2015 calendar year. Accordingly, a reporting entity will not be subject to penalties if it first reports beginning in 2016 for the 2015 calendar year. The IRS urges voluntary compliance during the 2014 calendar year.

6055 Report

What employers are subject to these reporting requirements?

Employers who sponsor an insured medical plan do not have to file a 6055 Report. Instead, the insurance issuer will be responsible for filing a 6055 Report for an employer-sponsored insured plan.

Employers who sponsor a self-insured health plan, however, are responsible for filing a 6055 Report, regardless of the number of employees. This includes the sponsor of a plan maintained by a single employer, and each participating employer of a plan maintained by more than one employer, including a controlled group of employers. The proposed regulations provide that one member of the controlled group may assist the other members by filing returns and furnishing statements on behalf of all members. Further, although employers are permitted to use third parties to facilitate 6055 Reporting, the liability remains with the employer.

Special Multiemployer Plan Concerns: As stated above, the proposed regulations provide that plan sponsors of self-insured health plans must file a 6055 Report. The regulations confirm that in the context of a multiemployer plan, the plan sponsor (and entity responsible for issuing the report) is the association, committee or joint board of trustees who establish or maintain a self-funded multi-employer plan.

The proposed regulations make clear that no 6055 Report is required for health spending accounts (HSAs) or health reimbursement arrangements (HRAs) that supplement plans offering minimum essential coverage (known as integrated HRAs). However, HRAs that are not integrated with other coverage, including retiree HRAs, will have to file a 6055 Report.

What information must be reported to the IRS?

The 6055 Report will allow taxpayers to establish, and the IRS to verify, the months during the year during which taxpayers had minimum essential coverage to satisfy the individual mandate. Specifically, Section 6055 requires all providers of minimum essential coverage to report the following to the IRS:

- The name, address, and employer identification number (EIN) of the employer plan sponsor;
- the name, address, and taxpayer identification number (TIN) (i.e. social security number), of the primary insured, employee, former employee or related person (for example, a parent or spouse) who enrolls for coverage (the “Responsible Individual”);
- the name and TIN (i.e. social security number), of each other individual covered under the program; and
- the months for which, each covered individual was enrolled in coverage and entitled to benefits (for at least one day).

What must be furnished to Responsible Individuals?

Every filer must also furnish a written statement to each Responsible Individual showing the contact number for the reporting entity, along with the information reported to the IRS. This may be done by providing a copy of the return filed with the IRS. In this case, a truncated TIN may be used in lieu of the complete SSN.

What is the timing and manner of filing?

6055 Reports will be submitted to the IRS using IRS Form 1095-B, along with a transmittal form, IRS Form 1094-B, made available at a later date. These forms must be filed with the IRS on or before **February 28** (or March 31 if filed electronically) of the year following the calendar year to which they relate. Reporting entities must issue the 6055 Report to Responsible Individuals no later than **January 31** of the year following the calendar year in which minimum essential coverage was provided.

Social Security Numbers:

Notably, the proposed regulations require reporting entities to make reasonable efforts to collect social security numbers (SSN). Although the proposed regulations allow reporting entities to use a date of birth if a SSN is not available, this alternative should not be used unless the reporting entity has made reasonable efforts to obtain the SSN. According to the preamble, this means that after an initial attempt to collect a SSN, a reporting entity must make two additional (consecutive) annual attempts. If a reporting entity makes the two additional attempts, no penalty will be imposed for failing to provide all required information. Many employers have been backing away from requiring employees to report social security numbers when enrolling in health coverage. This new reporting requirement may require employers to shift gears and require this information during their next open enrollment.

6056 Report

What employers are subject to these reporting requirements?

Those employers subject to the employer mandate, known as “applicable large employers” or ALEs, must file. An applicable large employer is an employer with at least 50 full-time employees, including full-time equivalents (see Issue 20) determined on a controlled group basis. In general, each member of the controlled group must file a 6056 Report. Each such member of a group that is determined to be an applicable large employer is referred to as an “ALE member” in the proposed regulations.

Bifurcated Reporting for Multiemployer Plans

Penalties may be avoided by offering coverage pursuant to a collective bargaining agreement. The agencies recognize that the administrator of a multiemployer plan may have better access to certain information required on the 6056 Report than a participating employer. In order to prevent employers from waiting for required information, it is anticipated employers contributing to a multiemployer plan would split or bifurcate their 6056 Report as follows.

- One return would pertain to the full-time employees eligible to participate in the multiemployer plan (this group could be further split into separate reports for each multiemployer plan to which the employer contributes), and
- Another return would pertain to the employer’s non-bargained full-time employees.

The administrator of a multiemployer plan is permitted to report on behalf of an employer for the first group described above. However, the employer remains responsible under Section 6056, and must sign the 6056 Report filed on its behalf.

What information must be reported to the IRS?

The proposed regulations require each ALE member to report:

- the name, date, and employer’s identification number (EIN) of the ALE member,
- the name and telephone number of the applicable large employer’s contact person,
- the calendar year for which the information is reported,
- the number of full-time employees for each month during the calendar year,
- a certification as to whether the ALE member offered its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an employer-sponsored plan, by calendar month,
- for each full-time employee, the employee’s share of the lowest cost option of self-only coverage (that provides minimum value) offered under a plan, by calendar month, and
- the name, address and TIN of each full-time employee and the months, if any, during which the employee was covered under the plan.

What must be furnished to full-time employees?

Every ALE member must also furnish each of its full-time employees a written statement (the “Employee Report”) showing:

- the name, address, and EIN of the ALE member, and
- the information required to be shown on the 6056 Report with respect to that individual.

ALE members must furnish statements to employees to help them determine whether, for each month during the calendar year, they can claim a premium tax credit on their tax return. If an employee receives affordable coverage that provides minimum value, the employee will not be eligible for a tax credit.

What is the timing and manner of filing?

Generally, an ALE member must file each 6056 Report with the IRS using IRS Form 1094-C, along with a transmittal form, IRS Form 1095-C, which will be made available at a later date. 6056 Reports must be filed with the IRS annually no later than **February 28** (March 31 if filed electronically) of the year immediately following the calendar year to which the 6056 Report relates. Because employees generally will need to receive their Employee Reports early in the calendar year in order to correctly file their tax returns, the IRS requires each ALE member to furnish the Employee Report on or before **January 31** of the year immediately following the calendar year to which the 6056 Report relates.

Electronic Furnishing of Individuals' Statements

Reporting entities may furnish the 6055 Report and/or 6056 Report electronically if the recipient consents. Prior to providing such consent, the recipient must be given a disclosure statement containing specific information regarding the availability of a paper statement, the scope and duration of the consent, how to withdraw consent, a description of the hardware and software required to access and print the statement, the date when the statement will no longer be available on the website, and information about attaching the statement to Federal, State or local income tax returns.

If a 6055 or 6056 Report is to be furnished on a website, the furnisher must notify the recipient by mail, electronic mail or in person, and must provide instructions on how to access and print the statement. The notice must also include the following in capital letters: "IMPORTANT TAX RETURN DOCUMENT AVAILABLE". If provided by email, this language must be in the subject line.

Treasury and the IRS are considering potential simplified reporting methods that in certain situations would permit an employer to provide less information. Comments to the IRS are due November 8, 2013.

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