

ACA Reporting

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How are employers managing the new requirements?

In a recent survey completed by Employers Health,

32 percent of employers reported their organizations were unprepared for Sections 6055 and 6056 reporting requirements.

For large, self-insured employers, not only are these requirements burdensome, with an estimated time of 12 minutes to complete each Form 1095-C per employee, these requirements create a significant cost of at least \$1.50 to \$3.00 per employee to complete, distribute and file the appropriate forms. This article will provide a brief summary of why the Affordable Care Act (ACA) requires these forms to be completed, a summary for the forms that exist for this purpose, and employer results from the August 2015 survey.

Among other regulatory aims, the ACA seeks to reform health care by expanding and mandating health care coverage. These goals are affected by the individual mandate and employer mandate. The individual mandate generally requires individuals to maintain minimum essential coverage (MEC). An individual's failure to maintain MEC results in a monetary penalty assessed when the individual files his or her personal federal income tax return. The employer mandate or "employer shared responsibility" provision requires large employers to offer MEC to their full-time employees and also seeks to regulate the quality of coverage offered to employees via affordability and minimum value requirements.

To enforce these requirements, the ACA contains Sections 6055 and 6056. Section 6055 sets forth reporting requirements necessary to enforce the individual mandate and Section 6056 sets forth reporting requirements necessary to enforce the employer mandate. Section 6055 provides the Internal Revenue Service (IRS) and individuals with information concerning their enrollment in MEC in order to document whether they have satisfied the individual mandate for the reporting year. Section

6056 reports to the IRS and individuals regarding an employer's compliance with the employer mandate minimum value and affordability requirements. Additionally, Section 6056 requires that information be captured to identify if an employer is part of a commonly controlled group.

The goals of Sections 6055 and 6056 are accomplished using the following forms that are created and promulgated by the IRS:

1095-A (Public Market Place) – Form 1095-A reports information to the IRS about individuals who enroll in a qualified health plan through the Health Insurance Marketplace. It is furnished to individuals to allow them to request a premium tax credit, to reconcile the credit on their returns with advance payments of the premium tax credit (advance credit payments), and to file an accurate tax return.

1094-B (Carrier or Small [less than 50 FTEs] Self-insured Employer) – Form 1094-B is the transmittal form for Form 1095-B.

1095-B (Carrier or Small Self-insured Employer) – Form 1095-B reports information to the IRS and to taxpayers about individuals who maintain MEC and therefore are not liable for the individual mandate.

1094-C (Applicable Large Employer) – Form 1094-C is the transmittal form for Form 1095-C and reports summary information about the employer.

1095-C (Applicable Large Employer) – Form 1095-C reports coverage to each employee and the IRS. Both "C" Forms are used in determining whether an employer owes a payment under the employer shared responsibility provisions under section 4980H. The IRS uses this form to determine, if appropriate, an employee's eligibility for a premium tax credit. Employers with self-insured coverage also use Part III of Form 1095-C to report information to the IRS and employee about the employee and dependents who have MEC under the employer's plan and therefore are not liable for the individual mandate.



Large, self-insured employers (employers with 50 or more full-time employees) will primarily interact with “C” series forms. As identified above, Form 1094-C serves as a transmittal form to report summary information about the employer and aggregate number of employees covered. Form 1095-C is broken into three parts. Part I is used to provide general information about the employee and employer. Part II is critical to the employer mandate and is used to report information about the offer of coverage, if made, and the cost of coverage. Part III is used for the individual mandate and lists the employee and employee’s dependents covered under the plan. Only large, self-insured employers are required to complete all three parts of Form 1095-C.

The IRS estimates that it will take four hours to complete Form 1094-C and 12 minutes to complete each Form 1095-C. Thus, for a company with 500 employees, it will take approximately 100 hours to complete the Forms 1095-C, in addition to the four hours to complete the transmittal form. Employers will want to create and distribute these forms in a timely manner. Providing late or incorrect forms to the IRS or employees can result in significant fines. The fines are as follows:

- **Up to \$50 per return, up to \$500,000, if filed or corrected within 30 days of the deadline.**
- **Up to \$100 per return, up to \$1.5 million, if filed or corrected on or before Aug. 1.**
- **Up to \$250 per return, up to \$3 million, if filed or corrected after Aug. 1.**

The Employer Survey Results

In the face of these new requirements and the burden on employers, especially large, self-insured employers, Employers Health recently completed a survey of its member organizations. Respondents were predominately (98 percent) large, self-insured employers. The survey centered on tracking hours of variable hour employees, preparing Forms 1094 and 1095, and filing and completing Forms 1094 and 1095. To meet these requirements, the results indicate that large employers generally plan to utilize their HRIS, benefits administration systems or a specialized service, while smaller employers plan to utilize their payroll vendors or existing resources.



Nearly 71 percent of respondents have employees whose hours must be tracked to determine if these employees are full time for the purposes of the employer mandate. Of these employers, 53 percent track hours in-house with existing resources such as Microsoft Excel, and 47 percent use specialized software (including enhanced payroll modules, HRIS, benefits admin, etc.).

More than 20 percent of employers are still working to identify a process to *complete* Forms 1094 and 1095. Of those that have identified a process, **83 percent are working with a vendor** to perform this task. Interestingly, 36 percent of employers have yet to identify a process to *file and distribute* Forms 1094 and 1095. As anticipated, this suggests that employers exploring these offerings may need to view creation and distribution/filing as distinct processes and seek clarification of a potential vendor’s capacity to distribute and file the appropriate forms. Of the **64 percent of employers that have identified a process to file and distribute Forms 1094 and 1095**, nearly 90 percent plan to do so with the help of a vendor or specialized software. This suggests that in order to meet the electronic filing requirements for employers with 250 or more employees, employers will likely partner with a vendor.

As part of the survey, employers were asked to estimate the cost per employee to meet the hour tracking and reporting requirements. Responses varied, but **employers expect to spend between \$1.50 to \$3.00 per employee to complete, distribute and file the appropriate forms**. For employers that must purchase enhanced services from a current vendor, implement new vendors or purchase special software to coordinate data feeds or track hours, employers can expect these services to range from \$10,000 to \$30,000 including implementation and annual fees.

Employers prepared for the reporting requirements must ensure that forms are completed on time and, if using a vendor, must accurately monitor their vendor(s). Employers that have not identified a strategy must understand the importance of complying with these requirements and develop a strategy. Such a strategy should likely leverage existing relationships wherever possible, as many vendors are unable to accommodate new groups this close to the reporting deadlines. For any ACA reporting questions, please contact associate counsels Garrett Brown or Zach Hostetler.