

BREAKING NEWS



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For Immediate Release:

September 2013
Employee Benefits
Compliance Breaking News
Volume 2013 Issue 15



THE DEPARTMENT OF TREASURY & IRS ISSUE PROPOSED REGULATIONS & REQUEST FOR COMMENTS ON PPACA'S EMPLOYER REPORTING REQUIREMENTS

EXECUTIVE SUMMARY

- Proposed guidelines released for future reporting of employer sponsored plans to the IRS and employees (under Section 6056 of PPACA)
- Employers must report information on employer sponsored plans to the IRS by February 28 (March 31 if filed electronically) of the year following the applicable year of coverage (filing will most likely be mandatory in 2016 for plan years beginning in 2015)
- Employers must report information to employees regarding employer sponsored coverage by January 31 of the year following the applicable year of coverage (reporting will most likely be mandatory in 2016 for plan years beginning in 2015)
- Proposed guidelines require future reporting of minimum essential coverage to be completed by carriers of fully-insured plans and plan sponsors of self-funded group plans, to the IRS (under Section 6055 of PPACA)



The Department of Treasury and the Internal Revenue Service (IRS) recently issued two sets of proposed regulations addressing the requirements for carrier and employer reporting obligations under the Patient Protection and Affordable Care Act (PPACA). Highlights are on the following pages.

PROPOSED REGULATIONS ON APPLICABLE LARGE EMPLOYER REPORTING REQUIREMENTS UNDER SECTION 6056

Background

- Under Section 6056 of PPACA, applicable large employers are required to report to the IRS about the health care coverage they offer to employees
- Applicable large employers must also inform employees as to whether the employer sponsored coverage qualifies as affordable, minimum value coverage

Application

- Regulations affect applicable large employers (i.e., employers with 50 or more full-time and/or full-time equivalent employees, in the prior year), and may also affect employees and employees' relatives

Proposed Reporting Requirements

Every applicable large employer, with respect to its full-time employees, is subject to the filing requirement under Section 6056 of the Internal Revenue Code (IRC).

Information to be Reported by Employer to the IRS

The proposed rule identifies items an employer would need to report to the IRS. Each member of a control group or member under common ownership must file a report separately. The reported items include:

- The name, address, and Employer Identification Number (EIN) of the employer
- The name and telephone number of the contact person for the employer
- The calendar year for which the employer is reporting
- A certification from the employer as to whether it offered full-time employees Minimum Essential Coverage (MEC), by calendar month
- The number of full-time employees the employer had during the year, by calendar month
- For each full-time employee, the months during the year for which the plan was offered to that employee
- For each full-time employee, what the employee's contribution would be towards the lowest cost, employer sponsored minimum value plan, monthly premium (self-only), by month
- The name, address, and Taxpayer Identification Number (TIN) of each full-time employee, if any, who was covered under an eligible sponsored plan

Action (Optional)

Employers should be aware of the future reporting requirements, and update their current systems and processes if they are not currently capturing this information in relation to employees.

These regulations also serve as a notice of public hearing and request for comments. Requests to speak and for an outline of topics to be discussed at the public hearing scheduled for November 18, 2013 must be received 60 days from September 9, 2013.

- Submissions may be mailed to: CC:PA:LPD:PR (REG-136630-12), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044
- Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-136630-12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC
- Submissions may be delivered electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-136630-12)

For information concerning the proposed regulations: Ligeia Donis (202) 927-9639. For information concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing: Oluwafunmilayo (Funmi) Taylor at (202) 622-7180 (not toll-free numbers).

Complete details of the proposed regulations can be found at:

<https://s3.amazonaws.com/public-inspection.federalregister.gov/2013-21791.pdf>

PROPOSED REGULATIONS ON APPLICABLE LARGE EMPLOYER REPORTING REQUIREMENTS UNDER SECTION 6056 (CONTINUED)

The proposed rule also identifies certain required information that may be reported by employers to the IRS through indicator codes. These items may include:

- Information on whether minimum value coverage was offered to an employee and dependents, and whether that coverage was also offered to the employee's spouse
- The total number of employees, by calendar month
- Whether an employee's effective date of coverage was effected by a waiting period
- Whether the employer was not conducting business in any given month
- Whether the employer will no longer be an applicable large employer the following year
- Whether the employer is a member of a control group or under common ownership, along with the EIN of each employer member of the group
- The name, address, and identification number of the appropriately designated person reporting on behalf of an employer who is a governmental entity
- Whether an employer is contributing towards coverage under a multi-employer plan, if that employer is part of a multi-employer plan
 - Including the name, address, and identification of the administrator, of the multi-employer plan, reporting on behalf of the employer

The proposed rule also identifies certain other information that may be reported through indicator codes. Some of these codes may be used in conjunction with one another. These items may include:

- Whether MEC was offered to:
 - The employee only;
 - The employee and employee's dependents only;
 - The employee and spouse only; or
 - The employee and the employee's dependents and spouse
- The reasons that MEC may not have been offered to the employee, because:
 - The employee was in a waiting period;
 - The employee was not a full-time employee;
 - The employee was not employed for that specific month; or
 - No other code or exception applies
- That coverage was offered to the employee, even though the employee was not a full-time employee during that month
- That the employer met one of the affordability safe-harbors (i.e., the Form W-2 wages method, Rate of Pay method, or Federal Poverty Level method)

PROPOSED REGULATIONS ON APPLICABLE LARGE EMPLOYER REPORTING REQUIREMENTS UNDER SECTION 6056 (CONTINUED)

Information to be Reported by Employer to Employees

Applicable large employers, in addition to filing reports with the IRS, must also furnish a statement regarding benefits to its employees. Certain methods have been proposed regarding this process:

- Employers may be able to report whether they offer certain employees health benefits coverage through a code on their W-2 wage statement; this code may also indicate whether MEC:
 - Was or was not offered to the employee, the employee's spouse and the employee's dependents;
 - Was offered coverage, but did not provide minimum value; or
 - Was not offered at all
- Employers may also furnish a copy of the reporting requirement to employees on a Form 1095-C (or another IRS designated form)

Manner of Reporting

An applicable large employer who has 250 or more returns (i.e., employee Section 6056 reports) during the calendar year must file the report electronically. An applicable large employer with less than 250 returns is encouraged to file the report electronically, but has the option of filing it in paper form.

Timing of Reporting

Employers must file their health coverage returns no later than February 28 (or March 31 if filed electronically) of the year immediately following the calendar year to which the return relates.

- Example: Employer X has a health plan beginning on January 1, 2015. The return must be filed by March 1, 2016 (February 28, 2016 is a Sunday)

Employers must also furnish statements to their employees annually, by January 31 of the year immediately following the calendar year to which the employee statements relate.

- Example: Employer X has a health plan beginning on January 1, 2015. The employee statements must be furnished to employees no later than February 1, 2016 (January 31, 2016, is a Sunday)

Other Reporting Considerations

The IRS has also taken the following issues into consideration, to be decided upon in future guidance:

- Self-funded employers may be responsible for three reporting requirements: Section 6051 for wages paid and taxes withheld; Section 6055 reporting for any employer providing MEC; and Section 6056 plan coverage reporting. The IRS is looking into simplifying reporting for self-funded plans
- Simplified reporting requirements if the employee contribution is below a specific level, or if the employee does not contribute at all to employer sponsored coverage
- Governmental units that designate another person or persons to report on its behalf
- Employers that may have another entity file the return, and the employer's ultimate liability for failure to file the return, regardless of the other entity's contractual obligations
- Employers failing to file the return and the general reporting penalties they would be subject to under the Internal Revenue Code
- The manner in which multi-employer plans may report: the administrator reports those employees covered under the multi-employer plan; the employer reports those employees not covered under the multi-employer plan, and the ultimate responsibility of the employer to ensure the return is properly filed under a multi-employer plan

PROPOSED REGULATIONS ON INFORMATION REPORTING OF MINIMUM ESSENTIAL COVERAGE UNDER SECTION 6055

Background

- Health insurance carriers, certain employers (self-funded), and others that provide MEC to individuals must report to the IRS information about the type and period of coverage and furnish related statements to covered individuals

Application

- Affects health insurance carriers, self-funded employers, governments, and other persons that may provide MEC to individuals

Proposed Reporting Requirements

Health insurance carriers and employers who have self-funded group health plans should review the below reporting requirements, as they may be subject to Form 1095-B (yet to be designed) reporting under Section 6055 of the Affordable Care Act (in addition to the Section 6056 applicable large employer reporting requirements).

Information to be Reported

The proposed rule identifies items the applicable entity would need to report to the IRS. These items are:

- The name, address, month of coverage and TIN of the responsible person who has submitted the application for coverage
- The names, addresses, months of coverage and TINs of each covered individual of the plan
 - Penalties for failure to report the TINs will be waived if the reporting entity makes a reasonable effort to collect the TINs
 - If TINs are not obtainable after a reasonable effort, dates of birth may be substituted

Manner of Reporting

The collection of this information will be used to determine whether an individual has MEC for purposes of the Individual Mandate. The IRS will designate a new form for the reporting or amend portions of the current Form 1095-B. Only one statement needs to be furnished to each address, if multiple covered persons reside at one address.

Action (Optional)

Employers with self-funded medical plans should be aware of the future reporting requirements, and update their current systems and processes if they are not currently capturing this information in relation to employees.

Requests to speak and for outlines of topics to be discussed at the public hearing scheduled for November 19, 2013 must be received 60 days from September 9, 2013.

- Submissions may be mailed to: CC:PA:LPD:PR (REG-132455-11), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044
- Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-132455-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC
- Submissions may be delivered electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-132455-11)

For information concerning the proposed regulations: Andrew Braden, (202) 622-4960. For information concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing: Oluwafunmilayo (Funmi) Taylor, (202) 622-7180 (not toll-free calls).

Complete details of the proposed regulations can be found at:

<https://s3.amazonaws.com/public-inspection.federalregister.gov/2013-21783.pdf>

PROPOSED REGULATIONS ON INFORMATION REPORTING OF MINIMUM ESSENTIAL COVERAGE UNDER SECTION 6055 (CONTINUED)

Timing of Reporting

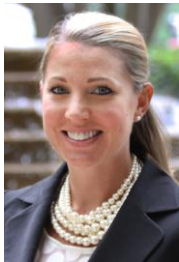
Entities must file their reports no later than February 28 (or March 31 if filed electronically) of the year immediately following the calendar year to which the report relates.

- Example: Carrier A has a health plan beginning on January 1, 2015. The return must be filed by March 1, 2016 (February 28, 2016 is a Sunday)

Entities must also furnish statements to covered persons annually, by January 31 of the year immediately following the calendar year to which the coverage relates.

- Example: Carrier A has a health plan beginning on January 1, 2015. The covered person statements must be furnished no later than February 1, 2016 (January 31, 2016, is a Sunday)

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