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Overview of the March 10, 2014 Final Rule on Information Reporting for Large Employers

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Table of Contents

Introduction	1
Reporting Requirements for Applicable Large Employers (§6056).....	1
ALE Member Subject to §6056 Requirements With Respect to Full-Time Employees.....	1
General Method – Content, Manner, and Timing of Information Required To Be Reported to the IRS and Furnished to Full-Time Employees.....	1
Information Reporting to the IRS.....	1
Information Required To Be Reported and Furnished.....	2
Use of Indicator Codes to Provide Information with Respect to a Particular Full-Time Employee.....	2
Section 6056 Statements to Full-time Employees.....	3
Time for Filing §6056 Returns and Furnishing Employee Statements.....	3
Manner of Filing of §6056 Information Returns and Furnishing of §6056 Employee Statements.....	4
Alternative Methods for §6056 Information Reporting for Eligible ALE Members.....	4
Reporting Based on Certification of Qualifying Offers.....	4
Option to Report without Separate Identification of Full-Time Employees If Certain Conditions Related to Offers of Coverage Are Satisfied (98 Percent Offers)	4
Reporting for Applicable Large Employers with Fewer than 100 Full-Time Employees Eligible for Transition Relief under §4980H.....	5
Combinations of Alternative Reporting Methods	5
Person Responsible for §6056 Reporting.....	6
Special Rules for Governmental Units: Designation	6
ALE Members Participating in Multiemployer Plans	6
Section 6056 Reporting Facilitated by Third Parties	6
Applicability of Information Return Penalties and Penalty Relief for 2015	7



Overview of the March 10, 2014 Final Rule on Information Reporting for Large Employers

Introduction

On March 10, 2014, the United States Department of the Treasury, Internal Revenue Service (IRS) issued a final rule on *Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered under Employer-Sponsored Plans* (<http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-05050.pdf>). This final rule explains the reporting requirements for large employers and provides information on various methods of reporting employee information to the IRS. This document provides a high-level summary of the rule.

Reporting Requirements for Applicable Large Employers (§6056)

Internal Revenue Code (IRC) §6056 imposes annual information reporting requirements on applicable large employers (ALEs)—generally defined as employers with 50 or more full-time employees—regarding the health insurance provided to full-time employees. This section also calls for ALEs that are subject to the employer shared responsibility requirements of IRC §4980H to file a return with the IRS that describes the health care coverage the employer provides. The return must include a list of full-time employees, the coverage offered to each, and the months for which the coverage applied. Entities will report the required information to the IRS on Form 1094-C—or another form the IRS designates—and to each of their full-time employees.

ALE Member Subject to §6056 Requirements with Respect to Full-Time Employees

Under the final rule, any ALE with 50 or more full-time employees, including each individual subsidiary of an aggregated parent corporation, is subject to the reporting requirements under §6056.

General Method – Content, Manner, and Timing of Information Required To Be Reported to the IRS and Furnished to Full-Time Employees

Information Reporting to the IRS

The final regulations provide that an ALE is required to submit a separate return for each full-time employee, accompanied by a single transmittal form (Form 1094-C or Form 1095-C) for all of the returns filed for a given calendar year. The final regulations adopt suggestions from



comments, allowing for combined reporting of the information required under §§6055 and 6056.¹

Information Required To Be Reported and Furnished

The final regulations require ALEs to report the following information under §6056:

- Name, address, and employer identification number of the ALE member, and the calendar year for which the information is reported
- Name and telephone number of the ALE member's contact person
- 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 eligible employer-sponsored plan, by calendar month
- Number of full-time employees for each calendar month during the calendar year, by calendar month
- Number of months during the calendar year for which minimum essential coverage under the plan was available for each full-time employee
- Employee's share of the lowest cost monthly premium for self-only coverage providing minimum value offered to that full-time employee under an eligible employer-sponsored plan, by calendar month
- Name, address, and taxpayer identification number of each full-time employee during the calendar year and the months, if any, during which the employee was covered under an eligible employer-sponsored plan

In addition, these regulations provide that the §6056 information return, as with other information reporting forms, may request such other information as the Secretary of the Treasury may prescribe, or as may be required by forms or instructions.

Use of Indicator Codes to Provide Information with Respect to a Particular Full-Time Employee

In order to simplify the reporting process, the following information will be reported for each full-time employee for each calendar month:

¹ IRC §6055 requires information reporting by any employer providing minimum essential coverage to an employee during a calendar year, while §6056 requires reporting by employers related to the offering of minimum essential coverage.



- Minimum essential coverage meeting minimum value was offered to:
 - Employee only
 - Employee and employee's dependents only
 - Employee and employee's spouse only
 - Employee, employee's spouse, and dependents
- Coverage was not offered to the employee and:
 - Any failure to offer coverage will not result in a payment under §4980H(a)
 - Employee was not a full-time employee
 - Employee was not employed by the ALE member during that month
 - No other code or exception applies
- Coverage was offered to the employee for the month although the employee was not a full-time employee for that month
- Employee was covered under the plan
- ALE member met one of the affordability safe harbors under IRC §54.4980H-5(e)(2) with respect to the employee.

Section 6056 Statements to Full-time Employees

Under the general §6056 reporting rules set forth in these regulations, every ALE member must furnish a §6056 employee statement to each of its full-time employees. In an effort to provide flexibility to employers who may wish to use a substitute type of statement, the final regulations provide that the §6056 employee statement may be made by furnishing either a copy of the §6056 return on Form 1095-C or a substitute employee statement.

Time for Filing §6056 Returns and Furnishing Employee Statements

The final regulations provide that §6056 returns 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 return relates. This is the same filing schedule applicable to other information returns with which employers are familiar, such as Forms W-2 and 1099. The first §6056 returns required to be filed are for the 2015 calendar year and must be filed no later than March 1, 2016, or, if filed electronically, March 31, 2016. The final regulations explain that, given the delay of the employer shared responsibility requirement, employers that wish to voluntarily comply with the reporting requirements for 2014 should do so in accordance with these final regulations.



Manner of Filing of §6056 Information Returns and Furnishing of §6056 Employee Statements

Consistent with other tax information reporting requirements, the final regulations require electronic filing of §6056 information returns (Forms 1094-C and 1095-C). The only exemption is for an ALE member filing fewer than 250 returns under §6056 during the calendar year, provided that only §6056 returns are counted in applying the 250-return threshold for reporting.

Alternative Methods for §6056 Information Reporting for Eligible ALE Members

In developing these regulations, the Department of the Treasury and the IRS sought to create alternative reporting methods to minimize the cost and administrative tasks for employers. The agencies have identified specific groups of employees for whom alternative reporting would provide sufficient information, and the final regulations outline optional alternative reporting approaches for these groups. In many situations, not every full-time employee of an employer fits into the groups of employees for which an alternative reporting method is available. The final regulations explain that employers should use the general reporting method for those full-time employees for whom an alternative method is not applicable.

Reporting Based on Certification of Qualifying Offers

Under the final regulations, to be eligible to use the alternative method with respect to full-time employees, an ALE must certify that it offered minimum essential coverage that met both the minimum value and affordability standards for both the employee and the employee's spouse and dependents for all the months during the year in which the employee was considered full-time.

For 2015 only, an ALE member may use the alternative method if it can certify that it has made a qualifying offer to at least 95 percent of its full-time employees and their spouses and dependents. Further, in lieu of providing a Form 1095-C to its employees, an ALE may satisfy its §6056 requirement by furnishing a statement to each of its full-time employees by January 31 of the year following the year to which the statement relates.

Option to Report without Separate Identification of Full-Time Employees If Certain Conditions Related to Offers of Coverage Are Satisfied (98 Percent Offers)

The final regulations relax reporting requirements for employers offering coverage to 100 percent of their full-time employees. These regulations allow such employers to meet §6056 reporting requirements without determining whether each employee offered coverage is a full-



time employee and without specifying the number of the employer's full-time employees. To be eligible to use this simplified method, an employer must certify on its transmittal form that it offered health coverage to at least 98 percent of the employees on whom it reports in its §6056 return. For this purpose, coverage is treated as affordable if the cost of employee-only coverage satisfies any applicable affordability safe harbor under the §4980H final regulations. Setting the level at 98 percent will help ensure that the employer has offered coverage to at least 95 percent of its full-time employees and therefore is not subject to an assessable payment under §4980H(a). While this alternative method allows reporting without identifying or specifying the number of full-time employees, it does not exempt the employer from any penalties that might apply for failures to report. Reporting for all full-time employees is still required under the normal rules, including for those employees not offered coverage. The 98 percent standard helps avoid the need for excessive inquiries as to whether particular individuals claiming a premium tax credit were full-time employees.

Reporting for Applicable Large Employers with Fewer than 100 Full-Time Employees Eligible for Transition Relief under §4980H

The final regulations provide transition relief from §4980H for the year 2015 for ALEs with fewer than 100 full-time employees. However, ALEs eligible for §4980H transition relief must report under §6056 for 2015. To qualify for transition relief, an ALE member must certify on its §6056 transmittal form that it meets the eligibility requirements set forth in the final regulations.²

Combinations of Alternative Reporting Methods

The alternative reporting methods may apply to particular groups of employees. An employer is permitted to use different methods for different employees at the employer's election, as specified in forms and instructions.

² Transition relief may delay payments under IRC §4980H through 2015 for employers with at least 50 but fewer than 100 full-time employees (including full-time equivalents) beginning January 1, 2016. The number of employees is based on 2014, using the requirements for determining status as a large employer. To qualify for the transition relief, the employer must certify that it has not laid off employees or reduced hours in order to fall below the 100-employee threshold, nor has it materially reduced its previously offered health coverage. Larger employers that are required to comply with §4980H in 2015 may avoid an assessable payment by offering coverage to at least 70 percent of full-time employees, rather than the 95 percent threshold that will be required in 2016. For this period, the assessable payment under §4980H(a) will be calculated by subtracting 80 from the number of full-time employees, rather than 30 as called for in the statute. Additional transition relief is available for the following situations: non-calendar plan years; failure to offer coverage for January 2015; failure to offer coverage for dependents; shorter measurement periods for stability periods starting during 2015; shorter periods in 2014 for determining applicable large employer status for 2015; and multi-employer plans (extended from 2014).



Person Responsible for §6056 Reporting

Special Rules for Governmental Units: Designation

Where an ALE is a governmental unit, that ALE may either report under §6056 on its own behalf or designate another person to report on its behalf. Under this section, the rules explain that for purposes of the designation, an appropriate person would be one that is part of or related to the same governmental unit as the ALE member. As an example, the IRS explains that a political subdivision of a state may designate the state, another political subdivision, or an agency or instrumentality of the state to report on its behalf.

Under this special rule, the person designated for §6056 reporting would be subject to any penalties for failing to comply. Any penalties related to noncompliance with §4980H, however, would be assessed on the ALE member. Further, a separate §6056 return would be required for each ALE member.

ALE Members Participating in Multiemployer Plans

Under this section, the IRS explains that the unique structure of multiemployer plans means that some information needed for §6056 reporting is contained in the plan agreement and other information is with the ALE. As such, reporting by an ALE would not provide all of the necessary information under §6056. Therefore, under this scenario, the multiemployer plan administrator and the ALE must both file §6056 returns. The IRS indicates that additional forms and instructions will be provided.

Section 6056 Reporting Facilitated by Third Parties

In this section of the final rule, the IRS acknowledges that there are situations in which an ALE works with a third-party administrator (TPA) to carry out core functions related to the ALE's health plans. The IRS explains that commenters therefore requested that ALEs be able to use TPAs to perform §6056 reporting. The IRS is allowing this under the final rules, but explains that contracting with a TPA to perform the §6056 reporting does not shield the ALE from liability related to a failure to report under §6056 and these regulations.

Applicability of Information Return Penalties and Penalty Relief for 2015

Under this section, the IRS explains that, after taking into consideration a number of comments received on the types of penalties that ALEs who fail to report may be subject to, the agency has decided to provide short-term relief from a few types of these penalties. The relief is related to instances where the ALE can show a good faith effort to report §6056 information, and where incorrect or incomplete information was reported.





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