



Health Care Reform Update



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM **Update #37** **August, 2014**

IRS Releases Draft Forms for Health Coverage Information Reporting

The IRS has released draft versions of the forms to be used by employers and insurers filing information returns and providing individual statements under the Employer Reporting Requirement Codes §§ 6055 and 6056. First filings will be due in early 2016 to report health coverage provided in 2015; final regulations issued in March addressed the filing requirements (BLA Health Care Reform Update #33, March, 2014). Released without instructions, the draft forms leave the reader guessing at the meaning of certain items but nevertheless provide a better understanding of what information will be required.

As background, the B Forms (1094-B and 1095-B) will be used for Code § 6055 compliance by insurers and certain employers that sponsor self-insured health plans; they require information about “minimum essential coverage” provided to individuals for purposes of enforcing the individual mandate. The C Forms (1094-C and 1095-C) will be used for Code § 6055 compliance by applicable large employers (ALEs) that sponsor self-insured health plans and for Code § 6056 compliance by all ALEs; they require detailed information about coverage provided to employees, spouses, and dependents for purposes of the individual mandate as well as for enforcing Code § 4980H employer penalties and eligibility for premium tax credits. (Remember: Full-time employees receiving premium tax credits can trigger employer penalties.)

Here are highlights of each form:

- Form 1094-B. This single transmittal form will accompany the individual returns and specify the total number of Forms 1095-B submitted.
- Form 1095-B. A separate return must be filed for each “responsible individual” (typically the employee) with information about each covered individual, including the months in which coverage was provided.
- Form 1094-C. This single transmittal form will accompany the individual returns and specify the total number of Forms 1095-C submitted by an ALE member (including any forms filed on behalf of another ALE member). Under a column titled “Minimum Essential Coverage Offer Indicator,” the form requires the filer to check “yes” or “no” for each calendar month. Instructions will be necessary here, but this information will presumably be used to determine whether minimum essential coverage was offered to the necessary percentage of full-time employees and dependents to avoid subsection (a) penalties under Code § 4980H. The form also requires the full-time employee count and the total employee count for each month along with certification of eligibility for simplified reporting options (e.g., qualifying offer method) and applicable transition relief (e.g., ALEs with fewer than 100 full-time employees). In addition, the members of an “aggregated ALE group” must also be identified. Code § 4980H penalties are generally assessed against ALE members separately, but, for purposes of determining subsection (a) penalties, the ALE members of a controlled group must share the 30-employee reduction (or 80-employee



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reduction that applies in 2015 for ALEs with 100 or more full-time employees). It appears that this is why identification of each "aggregated ALE group" member will be required.

- Form 1095-C. A separate return must be filed by ALE members for each employee for whom information is required. Part I requires identifying information for the employee and ALE member. To satisfy Code § 6056, Part II requires information for each calendar month regarding the type of coverage offered (with codes to indicate no coverage, minimum value coverage, etc.) and to whom (employee, spouse, dependents). For each month, codes must also be used to indicate whether safe harbors apply (e.g., no penalty because the employee was not full-time or was in a limited non-assessment period, such as a waiting period) and whether an affordability safe harbor was used. ALEs must also report the employee's share of the lowest-cost monthly premium for minimum value self-only coverage (by month). To satisfy Code § 6055, Part III is used by ALEs providing self-insured coverage to report information for all covered individuals by month.

The IRS expects to release draft instructions in August, and both the forms and instructions will be finalized later this year. Employers, insurers, payroll vendors, and advisors now have some additional detail in terms of the breadth of information that must be tracked, coordinated, and provided to both the IRS and employees. With the start of 2015 just months away and notwithstanding the uncertainty created by the *Halbig* decision (subsidy availability in federally run health care exchanges), compliance planning must now step into high gear.

To obtain copies of the forms,, please use the links below:

[1094-B](#)

[1095-B](#)

[1094-C](#)

[1095-C](#)

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