



2020 ACA Reporting

The reporting requirements under the Affordable Care Act (ACA) have been in effect since 2015. Many employers, mainly large employers, are already familiar with the rules. However, some employers, particularly those that have grown in size, may lack clarity regarding their reporting obligations under the law. As the deadlines for 2020 ACA reporting roll near, it is important to review the basics of reporting, including any changes that may be applicable for the 2020 reporting year.

Basics of Reporting

The ACA created two federal reporting requirements under Internal Revenue Code (Code) Sections 6055 and 6056.

- **CODE SECTION 6055.** Under Code Section 6055, **insurance carriers and self-funded employers** (including small employers) must report to the IRS and to covered individuals that the persons were covered by minimum essential coverage. These entities use Form 1094-B and Form 1095-B (B Forms) to report this information. The IRS required this information as proof that individuals have satisfied their individual mandate, and therefore would not be subject to the tax penalty. However, since the individual mandate was effectively reduced to zero in 2019, the information is no longer relevant to the IRS and the covered individuals for that purpose. Consequently, the IRS has provided some relief to insurance carriers and small self-funded employers detailed in [Notice 2020-76](#). While they must prepare and file the B Forms with the IRS, these entities are not required to furnish individuals with a copy of the Form 1095-B as long as they satisfy certain requirements (see our [Benefits Bulletin](#)). It is important to note that this relief was not extended to ALEs who sponsor a self-funded group health plan, nor does it apply to any filing requirements that may apply through a state-imposed individual mandate.
- **CODE SECTION 6056.** Code Section 6056 applies to **applicable large employers (ALEs)** subject to the employer mandate or “pay or play” rules. ALEs must report information regarding their offer of health coverage to full-

time employees by filing a Form 1094-C and Form 1095-C (C Forms) with the IRS, and by distributing a copy of Form 1095-C to their full-time employees. The information on the forms will be used to determine whether the employer is subject to any pay or play penalties under Code § 4980H. It will also be used to determine whether individuals are eligible for the premium tax credit on the Exchange.

Which Employers are Required to Report?

- **ALEs.** Whether sponsoring a *fully-insured plan or a self-funded plan*, employers who are applicable large employers (ALEs) must comply with the Section 6056 reporting requirements. To be considered an ALE for a calendar year, an employer must have employed, on average, at least 50 full-time and full-time equivalent employees during the previous calendar year. All types of employers can be ALEs, including tax-exempt organizations and government entities.
- **CONTROLLED GROUPS.** All employees in a controlled group are considered together when determining whether the employer is an ALE. Therefore, if the *combined total of all full-time and full-time equivalent employees* of all employers within the controlled group meets the threshold, every employer in the controlled group is considered an ALE and is subject to the Section 6056 reporting requirements.
- **SMALL, SELF-FUNDED EMPLOYERS.** Small employers that sponsor a self-funded group health plan (*including a level-funded health plan*) must comply with the 6055 reporting requirements by using the B Forms. Note that ALEs that sponsor a self-funded health plan will comply with the reporting requirements under both Code Sections 6055 and 6056 by using the C Forms.

Reporting Forms

- **1094-B.** This form acts as a *transmittal form or cover sheet* for the Forms 1095-B to the IRS. The 1094-B requests only the following information: the filer's name and address, EIN, information for an employer contact person, total number of Forms 1095-B transmitted with the Form 1094-B and a signature, title and date.
- **1095-B.** This form is used by *insurers and small, self-funded employers* to provide actual enrollment information of the individual and family members enrolled in minimum essential coverage.

- **1094-C.** This form acts as transmittal form or cover sheet for the Forms 1095-C, **similar to the W-3**. Some information reported on this form includes the basic contact and identifying information of the employer, whether the employer offered minimum essential coverage to at least 95% of its full-time employees for each month of the calendar year, and the total number of employees in each month.
- **1095-C.** This form will be completed for **every full-time employee (and every non-full-time employee enrolled in a self-insured health plan)** and submitted to the IRS, as well as furnished to each employee. This form requires the employer to detail its offer of coverage to the employee in order to avoid potential employer mandate penalties. As the IRS continues to assess Code 4980H penalties, it is critical to check the coding of each employee on the form to make sure the information is correct and an accurate representation of each employee.

On October 15, 2020, the IRS released final versions of the 2020 reporting forms and instructions. There were new data fields on the forms for ALEs who implemented an Individual Coverage HRA (ICHRA). Also, there were several other changes made that impact all ALEs (e.g., ALEs must now enter a two-digit number for the plan start month).

Deadlines for Filing

The due date for furnishing the 2020 Form 1095-B and 1095-C to *individuals* was extended from January 31, 2021 to **March 2, 2021** (see our [Benefits Bulletin](#)). Employers can deliver the 1095-Cs to individuals by mail, in-person or electronically (with consent). There was no extension of the deadline for filing with the IRS. This deadline remains **March 1, 2021 (March 31, 2021, if filing electronically)**. Electronic filing is mandatory if an employer is filing 250 or more Forms 1095-C and must be done via the ACA Information Returns (AIR) System.

Penalties

If an employer fails to furnish the necessary forms to individuals, or files incomplete or inaccurate ACA filing forms with the IRS, the **IRS may impose penalties of up to \$280 per form per failure**. However, the IRS will not impose penalties for incomplete or inaccurate forms if the employer can show it made “good-faith efforts” to comply with the information reporting requirements (which requires the forms to be filed timely with the IRS). This relief extends to the 2020 forms due in 2021 but will not be extended for the 2021 forms due in 2022.

Next Steps for Employers

FOR ALEs:

- **COVERAGE.** Confirm you offered *minimum essential coverage* that was *affordable* and provides *minimum value* to all full-time employees in 2020, and select the appropriate safe harbor used to determine the affordability of coverage.
- **FULLY INSURED.** Avoid filing for *non-full-time employees* if not required (only required to report for non-full-time employees if they were enrolled in a self-insured health plan).
- **DOCUMENT RETENTION.** Maintain records of hire and termination dates, along with *documents substantiating compliance* with the offer of coverage requirements (e.g. SBCs, records of eligibility, election and waiver forms, etc.).
- **OUTSOURCED REPORTING.** If working with an *ACA reporting vendor* or payroll provider, confirm that their system accommodates the updates made to the 2020 Forms.
- **STATE MANDATE.** If your state has an *individual mandate* requirement, consult with your ACA reporting vendor to confirm their system complies with the state's filing requirements.

FOR NON-ALEs:

- **SELF-INSURED & LEVEL-FUNDED PLANS.** If you sponsored a self-insured or level-funded group health plan in 2020, make arrangements to comply with the *Section 6055* reporting requirements by completing the necessary B Forms.
- **EMPLOYEE COUNT.** If you are close to the *50 full-time and full-time equivalent employee* threshold, determine your future ALE status for 2021 so you can proactively prepare to meet the 2021 ALE reporting requirements next year.

ADDITIONAL RESOURCES

Instructions

<https://www.irs.gov/instructions/i109495c>

<https://www.irs.gov/instructions/i109495b>

Forms

<https://www.irs.gov/pub/irs-pdf/f1095c.pdf>

<https://www.irs.gov/pub/irs-pdf/f1095b.pdf>