



# Health Care Reform

## LEGISLATIVE BRIEF

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## Q&As on Employer Reporting of Health Coverage (Section 6056)

The Affordable Care Act (ACA) created new reporting requirements under Internal Revenue Code (Code) Section 6056. These new reporting rules require applicable large employers (ALEs) subject to the ACA's employer shared responsibility rules to report information on the health coverage offered to full-time employees to the Internal Revenue Service (IRS) and covered individuals. Related statements must also be provided to individuals.

The additional reporting is intended to promote transparency with respect to health plan coverage and costs. It will also provide the government with information to administer the ACA's employer shared responsibility rules and premium tax credits. The employer shared responsibility rules impose penalties on ALEs that do not offer affordable, minimum value coverage to their full-time employees and dependents. **The ACA's employer penalties were set to take effect on Jan. 1, 2014, but they have been delayed until 2015.**

On Aug. 29, 2014, the IRS released the following [Questions and Answers](#) (Q&As) on Section 6056. Information reporting under Section 6056 is voluntary for calendar year 2014. **Reporting is first required in early 2016 for calendar year 2015.**

### BASICS OF EMPLOYER REPORTING

#### **1. What are the information reporting requirements for employers relating to offers of health insurance coverage under employer-sponsored plans?**

The ACA added Code Section 6056, which requires ALEs to file information returns with the IRS and provide statements to their full-time employees about the health insurance coverage the employer offered. (For a definition of ALE, see question 5, below.)

Under the [Section 6056 final regulations](#), an ALE may be a single entity or may consist of a group of related entities (such as parent and subsidiary or other affiliated entities). In either case, these reporting requirements apply to each separate entity and each separate entity is referred to as an applicable large employer member (ALE member). See question 7 for more information about the treatment of related entities.

The IRS will use the information provided on the information return to administer the employer shared responsibility rules in Section 4980H. The IRS and the employees of an ALE will use the information provided as part of the determination of whether an employee is eligible for the premium tax credit under the ACA.

ALEs that sponsor self-insured group health plans also are required to report information under Section 6055 about the health coverage they provide (See the IRS' [Section 6055 FAQs](#)). ALEs that sponsor self-insured group health plans file with the IRS and furnish to employees the information required under both Sections 6055 and 6056 on a single form. The IRS and individuals will use the information provided under Section 6055 to administer or show compliance with the ACA's individual mandate.

#### **2. When do the information reporting requirements go into effect?**

The information reporting requirements under Section 6056 are first effective for coverage offered (or not offered) in 2015. An ALE must file information returns with the IRS and furnish statements to employees beginning in 2016, to report information about its offers of health coverage to its full-time employees for calendar year 2015.



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[Notice 2013-45](#) provides transition relief for 2014 from the Section 6056 and Section 6055 reporting requirements and, thus, the ACA's employer shared responsibility rules as well. Accordingly, **neither the reporting requirements nor the employer shared responsibility rules apply for 2014.**

The transition relief applies to all ALEs including for-profit, nonprofit and government entity employers. However, in preparation for the application of the employer shared responsibility rules beginning in 2015, employers and other affected entities may comply voluntarily for 2014 with the information reporting provisions and are encouraged to maintain or expand coverage in 2014. Returns filed voluntarily will have no impact on the employer's tax liability. For more information about voluntary filing in 2015, including the requirements for filing electronic returns, see [IRS.gov](#).

### **3. Is relief available from penalties for incomplete or incorrect returns filed or statements furnished to employees in 2016 for coverage offered (or not offered) in calendar year 2015?**

Yes. In implementing new information reporting requirements, short-term relief from reporting penalties is frequently provided. This relief generally allows additional time to develop appropriate procedures for collection of data and compliance with the new reporting requirements. Accordingly, **the IRS will not impose penalties on ALEs that can show that they have made good faith efforts to comply with the information reporting requirements.**

Specifically, relief is provided from penalties for returns and statements filed and furnished in 2016 to report offers of coverage in 2015 for **incorrect or incomplete information** reported on the return or statement. No relief is provided in the case of ALEs that:

- Cannot show a good faith effort to comply with the information reporting requirements; or
- Fail to timely file an information return or furnish a statement.

However, consistent with existing information reporting rules, ALEs that fail to timely meet the requirements still may be eligible for penalty relief if the IRS determines that reasonable cause for the failure exists. See question 24 for more information about penalties.

### **4. Where is more detailed information available about these reporting requirements?**

The [Section 6056 final regulations](#) provide further guidance on the information reporting requirements for ALEs, and the [Section 6055 final regulations](#) provide guidance on the information reporting requirements for insurers and other health coverage providers. The [employer shared responsibility final regulations](#) provide guidance on determining ALE status and determining full-time employee status, including rules for calculating hours of service.

## **WHO IS REQUIRED TO REPORT**

### **5. Who is required to report under Section 6056?**

All ALEs that are subject to the ACA's employer shared responsibility rules are required to report under Section 6056. An ALE is an employer that **employed an average of at least 50 full-time employees** on business days during the preceding calendar year. A full-time employee generally includes:

- Any employee who was employed, on average, **at least 30 hours of service per week**; and
- Any full-time equivalents, or FTEs (for example, 40 full-time employees employed 30 or more hours per week, on average, plus 20 employees employed 15 hours per week, on average, are equivalent to 50 full-time employees).

For purposes of the Section 6056 reporting requirements, an ALE member is any person that is an ALE or a member of an aggregated group (determined under Code Section 414(b), 414(c), 414(m) or 414(o)) that is determined to be an ALE. See question 7 for information about aggregated groups. More information about ALE status and transition relief under the employer shared responsibility rules is available in the [employer shared responsibility final regulations](#) and the IRS' [related FAQs](#) (see questions 4–17 and 29–39 of those FAQs).

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## **6. Are non-profit and government entities required to report under Section 6056?**

Yes. Section 6056 applies to all employers that are ALEs, regardless of whether the employer is a tax-exempt or government entity (including federal, state, local and Indian tribal governments).

## **7. If two or more related companies together are an ALE under the employer shared responsibility rules, how do they comply with the information reporting requirements?**

For purposes of the information reporting requirements under Section 6056, each ALE member must file an information return with the IRS and furnish a statement to its full-time employees, using its own employer identification number (EIN). All persons treated as a single employer under Code Section 414(b), (c), (m) or (o) are treated as one employer for purposes of determining ALE status under the employer shared responsibility rules. Under those rules, companies will be combined and treated as a single employer for purposes of determining whether or not the employer has at least 50 full-time employees (including full-time equivalents) and together will be an ALE. Each of the companies that is combined is referred to as an ALE member. When the combined total of full-time employees (including FTEs) meets the threshold, each separate company or ALE member is subject to the employer shared responsibility rules, even if a particular company or companies individually do not employ enough employees to meet the 50-full-time-employee threshold. See questions 15–17 of the [employer shared responsibility FAQs](#) for more information about calculating the number of full-time employees (including FTEs).

For purposes of Section 6056 reporting, government entities, churches and a convention or association of churches should use the same interpretation of Code Section 414(b), (c), (m) and (o) as that used for purposes of the employer shared responsibility rules in determining whether a person or group of persons is an ALE and whether a particular entity is an ALE member.

## **8. Who is not required to report under Section 6056?**

Employers that are not subject to the ACA's employer shared responsibility rules are not required to report under Section 6056. Thus, employers that employed fewer than 50 full-time employees (including FTEs) during the prior year are not subject to the reporting requirements. However, any employer that sponsors a self-insured health plan is required to report under Section 6055, even if the employer has fewer than 50 full-time employees.

## **METHODS OF REPORTING**

## **9. Are different methods available to ALEs for reporting required information to the IRS and furnishing statements to employees?**

Yes. The final regulations provide:

- **A general method** (see question 10, below) that all ALEs may use for reporting to the IRS and for furnishing statements to full-time employees; and
- **Alternative reporting methods** (see question 11, below) for eligible ALEs.

If an ALE cannot use the alternative reporting methods for certain employees, the ALE must use the general method for those employees. In any case, the alternative reporting methods are optional, so that an employer may choose to report for all of its full-time employees using the general method even if an alternative reporting method is available.

In an effort to simplify the Section 6056 reporting process, certain information required to be reported to the IRS and furnished to full-time employees may be reported through the use of indicator codes, rather than by providing more detailed information. For more details about the reporting process, see the reporting forms and instructions.

## **10. What is the general method of reporting?**

The final regulations provide that, as a general method, each ALE may satisfy the requirement to file a Section 6056 return by filing a **Form 1094-C** (transmittal) and, for each full-time employee, a **Form 1095-C** (employee

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statement), or other forms the IRS designates. An ALE that maintains a self-insured plan also uses **Form 1095-C** to satisfy the reporting requirements under Section 6055. The Form 1095-C will have separate sections to allow ALEs that sponsor self-insured plans to combine reporting to satisfy both the Section 6055 and Section 6056 reporting requirements, as applicable, on a single return. See question 16 for more information about combined reporting.

For example:

- An ALE that sponsors a self-insured plan will complete the transmittal **Form 1094-C** and **both sections of Form 1095-C** to report: (1) Information under Section 6055 about health coverage provided; and (2) Information under Section 6056 about offers of health coverage.
- An ALE that sponsors an insured plan will complete the transmittal **Form 1094-C** and **the section of Form 1095-C addressing the information under Section 6056**.
- Non-ALEs (meaning employers not subject to the ACA's employer shared responsibility rules, and therefore not subject to the Section 6056 information reporting requirements) that sponsor self-insured plans will file **Forms 1094-B and 1095-B** to satisfy the Section 6055 reporting requirements.

Under the general method, the Section 6056 return (and, if the employer maintains a self-insured plan, the Section 6055 return) also may be made by filing a substitute form. However, the substitute form must include all of the information required on Forms 1094-C and 1095-C (or any other forms the IRS designates) and must satisfy all form and content requirements, as specified by the IRS.

Drafts of the forms, including Forms [1094-B](#), [1095-B](#), [1094-C](#) and [1095-C](#), are available at [irs.gov/draftforms](http://irs.gov/draftforms). Final versions of the forms will be made available in accordance with usual IRS procedures.

## **11. What are the alternative methods of reporting?**

The final regulations contain two alternative methods of reporting under Section 6056 that were developed to minimize the cost and administrative tasks for employers, consistent with the statutory requirements to file an information return with the IRS and furnish an employee statement to each full-time employee. In certain situations, the alternative reporting methods may allow employers to provide less detailed information than under the general method. These simplified alternative reporting methods, and the conditions for using them, are described in detail in Subsections A through D of the preamble to the [Section 6056 final regulations](#).

The alternative reporting methods are:

- Reporting Based on Certification of Qualifying Offers; and
- Option to Report Without Separate Identification of Full-time Employees if Certain Conditions Related to Offers of Coverage Are Satisfied (98 Percent Offers).

The information provided to the IRS and the employee under Section 6056 is important for administering the ACA's employer shared responsibility rules and the premium tax credit. However, in some circumstances, only some of the information required under the general method is necessary. Accordingly, the alternative reporting methods identify specific groups of employees for whom simplified alternative reporting would provide sufficient information.

## **12. For the methods of reporting, including reporting facilitated by a third party, may an ALE member file more than one Form 1094-C?**

Yes. **A separate Section 6056 transmittal (Form 1094-C) must be filed with any Forms 1095-C filed by each ALE member.** If more than one Section 6056 transmittal is being filed for an ALE member, one of those transmittals must be a **Section 6056 authoritative transmittal** reporting aggregate employer-level data for all of the ALE member's full-time employees, in accordance with forms and instructions.

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## **13. May an ALE satisfy its reporting requirements for an employee by filing and furnishing more than one employee statement that, together, provide the necessary information?**

No. **There must be only one Section 6056 employee statement (Form 1095-C) for each full-time employee** with respect to that full-time employee's employment with the ALE, so that all information for a particular full-time employee of the ALE is reflected on a single Form 1095-C. More details will be provided in forms and instructions.

## **WHAT INFORMATION APPLICABLE LARGE EMPLOYERS MUST REPORT**

### **14. What information must an ALE report to the IRS to satisfy Section 6056?**

The final regulations provide, under the general method of reporting, that an ALE must file **a separate Form 1095-C** (or other form the IRS designates, or a substitute form) **for each of its full-time employees**, and a transmittal on **Form 1094-C** (or any other form the IRS designates, or a substitute form) for all of the returns filed for a given calendar year. A more complete discussion of the information that must be reported to the IRS (including simplified methods of reporting) can be found in the [Section 6056 final regulations](#) at Sections IX.B and C.

### **15. What information must an ALE furnish to its full-time employees to satisfy Section 6056?**

The regulations provide that, under the general method, an ALE generally must furnish to each full-time employee a written statement showing:

- The ALE's name, address and EIN; and
- The information required to be shown on the Section 6056 return with respect to the full-time employee (and his or her spouse and dependents).

Employers are not required to include with the employee statement a copy of the transmittal form (Form 1094-C) that is filed with the IRS.

Under the general method, the required written statement furnished to full-time employees may be either a copy of the Form 1095-C (or another form the IRS designates) or a substitute form. A substitute form must include the information on the return required to be filed with the IRS and comply with requirements for substitute forms.

### **16. May an employer combine reporting under Sections 6055 and 6056?**

The final regulations under Sections 6055 and 6056 provide for combined reporting for employers that are subject to both reporting provisions (generally, ALEs that sponsor self-insured group health plans). To allow these employers to satisfy both the Section 6055 and 6056 reporting requirements on a single return, Form 1095-C will have separate sections for reporting under Section 6055 and for reporting under Section 6056.

## **HOW AND WHEN TO REPORT THE REQUIRED INFORMATION**

### **17. When must an ALE file the required information return with the IRS?**

ALEs must file the return for each employee (Form 1095-C or another form that IRS designates, or a substitute form) and a transmittal form (Form 1094-C or another form that IRS designates, or a substitute form) with the IRS on or before **Feb. 28 (March 31, if filed electronically)** of the year immediately following the calendar year for which the offer of coverage information is reported. Because transition relief applies for Section 6056 reporting for 2014 (see [Notice 2013-45](#)), the first Section 6056 returns required to be filed are for **the 2015 calendar year**, and must be filed no later than:

- **Feb. 29, 2016** (Feb. 28, 2016, being a Sunday); or
- **March 31, 2016**, if filed electronically.

Regulations under Code Section 6081 address extensions of time to file information returns.

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## **18. When must an ALE furnish the statements to full-time employees?**

ALEs must furnish the statement to each full-time employee on or before **Jan. 31** of the year immediately following the calendar year to which the information relates. This means that the first Section 6056 employee statements (the statements for 2015) must be furnished to employees no later than **Feb. 1, 2016** (Jan. 31, 2016, being a Sunday).

## **19. Must an ALE file the return with the IRS electronically?**

The final regulations **require electronic filing** with the IRS of Section 6056 information returns, **except for an ALE filing fewer than 250 Section 6056 returns** (employee statements) during the calendar year. Each Section 6056 return for each full-time employee is counted as a separate return, and only Section 6056 returns are counted in applying the 250-return threshold for Section 6056 reporting.

## **20. Must an ALE furnish the employee statements to full-time employees electronically?**

The final regulations permit, but do not require, employers to furnish the Section 6056 employee statements electronically to full-time employees if notice, consent, and hardware and software requirements modeled after existing rules are met. The final regulations require that, with respect to each full-time employee to whom the information is furnished, the ALE must obtain consent from the employee before the Section 6056 employee statement may be furnished electronically.

## **21. Are ALEs required to report information with respect to a full-time employee who is not offered coverage during the year?**

Yes. An ALE is required to report information about the health coverage, if any, offered to its full-time employees, **including whether an offer of health coverage was (or was not) made**. This requirement applies to all ALEs, regardless of whether they offered health coverage to all, none or some of their full-time employees. For each of its full-time employees, regardless of whether health coverage was or was not offered to the employee, the ALE is required to file a return with the IRS and furnish a statement to the employee reporting:

- Whether an offer of health coverage was or was not made to the employee; and
- If an offer was made, the required information about the offer.

Therefore, even if an ALE does not offer coverage to any full-time employees, it must file returns with the IRS and furnish statements to each of its full-time employees to report information specifying that coverage was not offered.

## **22. May an employer that is a governmental unit designate a third party to file the return and furnish the statements under Section 6056 on its behalf?**

Yes. A governmental unit is defined as the government of the United States, any state or political subdivision thereof, or any Indian tribal government or subdivision of an Indian tribal government. The final regulations provide that an ALE member that is a governmental unit may report under Section 6056 on its own behalf, or may appropriately designate another person or persons to report on its behalf. A person may be appropriately designated to file the return and furnish the statements under Section 6056 on behalf of the ALE member if the person is **part of or related to the same governmental unit as the ALE member**.

A separate Section 6056 return must be filed for each ALE member for which the appropriately designated person is reporting. The designated entity would provide the name, address and EIN of **both the designated entity and the ALE member for which it is reporting**. Additionally, the final regulations require that there be:

- A single identified Section 6056 transmittal (Form 1094-C) reporting aggregate employer-level data for all of the ALE member's full-time employees (including full-time employees of the ALE member, the reporting for which has been transferred to a designated person); and

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- Only one Section 6056 employee statement (Form 1095-C) for each full-time employee of the ALE member with respect to employment with that ALE member.

Further details will be provided in forms and instructions.

The designated person must agree that he or she is the appropriately designated person for the governmental unit and that he or she is responsible for reporting under Section 6056 on behalf of the ALE member. Thus, the appropriately designated person must agree that he or she is responsible for the information reporting under Section 6056 and is subject to the information reporting penalty. However, the ALE member remains subject to the employer shared responsibility rules.

### **23. May an employer hire a third-party administrator or other third-party service provider to file the return with the IRS and furnish the statements to employees required under Section 6056?**

Yes. Reporting arrangements between ALEs, issuers and other parties are not prohibited. However, entering into a reporting arrangement does not transfer:

- The ALE's potential liability under the employer shared responsibility rules; or
- The potential liability for the ALE's failure to file returns and furnish statements under Section 6056 (except in the case of a related entity properly designated by a governmental unit).

If a person who prepares returns or statements required under Section 6056 is a tax return preparer, that person will be subject to the requirements generally applicable to tax return preparers.

ALE members are responsible for reporting under Section 6056. Generally, each ALE member must file separate Section 6056 returns providing that ALE member's EIN. If more than one third party is facilitating reporting for an ALE member, there must be only one Section 6056 authoritative transmittal (Form 1094-C) reporting aggregate employer-level data for all full-time employees of the ALE member. Additionally, there must be only one Section 6056 employee statement (Form 1095-C) for each full-time employee with respect to employment with that ALE member. Further details will be provided in forms and instructions.

### **24. May an administrator of a multiemployer plan prepare the return and furnish the statements under Section 6056 for an ALE member that is a participating employer under the multiemployer plan?**

Yes. Section 6056 reporting regarding full-time employees on behalf of whom an ALE member contributed to a multiemployer plan is permitted under an approach whereby:

- The multiemployer plan administrator would prepare returns pertaining to the ALE member's full-time employees covered by the collective bargaining agreement who are eligible to participate in the multiemployer plan; and
- The ALE member would prepare returns pertaining to any of its full-time employees who are not eligible to participate in a multiemployer plan.

Under this approach, the multiemployer plan administrator would facilitate the filing of a separate Section 6056 return for each ALE member that is a contributing employer on behalf of whom he or she files. The multiemployer plan administrator also may assist the ALE member in furnishing statements to its full-time employees who are eligible to participate in the multiemployer plan.

The final regulations also require that there be:

- A single identified Section 6056 authoritative transmittal (Form 1094-C) reporting aggregate employer-level data for all full-time employees of the ALE member (including full-time employees of the ALE member, the reporting for which was done by a multiemployer plan administrator); and

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- Only one Section 6056 employee statement (Form 1095-C) for each full-time employee with respect to employment with that ALE member.

Further details will be provided in forms and instructions.

The ALE member remains the responsible person for reporting under Section 6056 regarding all of its full-time employees and thus, is subject to any potential liability for failure to file returns and furnish statements under Section 6056. If the multiemployer plan administrator that prepares the returns and statements required under Section 6056 is a tax return preparer, he or she is subject to the requirements generally applicable to tax return preparers.

## ***25. For information returns filed and furnished in 2017 for coverage offered (or not offered) in 2016 and later years, what penalties may apply if an ALE member fails to comply with the Section 6056 information reporting requirements?***

| FILING IRS RETURNS  | FURNISHING INDIVIDUAL STATEMENTS   |
|---|--|
| <p>The penalty under <b>Code Section 6721</b> may apply to an ALE member that:</p> <ul style="list-style-type: none"><li>• Fails to file information returns on time;</li><li>• Fails to include all the required information; or</li><li>• Includes incorrect information on the return.</li></ul> | <p>The penalty under <b>Code Section 6722</b> may apply to an ALE member that:</p> <ul style="list-style-type: none"><li>• Fails to furnish the employee statement on time;</li><li>• Fails to include all the required information; or</li><li>• Includes incorrect information on the statement.</li></ul> |

The waiver of penalty and special rules under Code Section 6724 and the applicable regulations, including abatement of information return penalties for reasonable cause, may apply to certain failures under Section 6721 or 6722. See question 2 for more details on when the information reporting is first required (in 2016 for coverage offered in 2015) and on voluntarily complying in 2015 for coverage offered in 2014. See question 3 for information on relief that applies with respect to these penalties for reporting and furnishing in 2016 for coverage offered in 2015.

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