

# Regulatory Resources

## Minimum Essential Coverage Reporting Requirements Section 6055 and 6056 reporting requirements

The Internal Revenue Service formally published on March 10, 2014, two final rules on reporting requirements established by the Affordable Care Act (ACA).

### Summary of Reporting Requirements

Type of Reporting	Effective Date	Who Must Comply?	Reporting Mandate	Reporting Deadlines
<b>IRS Code Section 6055 reporting requirement</b>	2016	Generally all health insurance issuers for all insured minimum essential coverage <sup>1</sup> and plan sponsors of self-funded minimum essential coverage, which are collectively known as "reporting entities"	Reporting entities must: <ul style="list-style-type: none"> <li>file information with the IRS about covered individuals (Applicable large employers use Form 1095-C and Transmittal Form 1094-C; other employers use Form 1095-B and Transmittal Form 1094-B) and</li> </ul>	<ul style="list-style-type: none"> <li><b>Paper returns:</b> Feb. 28, 2019</li> <li><b>Electronic filing:</b> (required if filing at least 250 returns under Section 6055): April 1, 2019</li> </ul>
			<ul style="list-style-type: none"> <li>provide a statement to the primary covered individuals (responsible individuals), who are plan participants (excluding dependents)</li> </ul> <p>No reporting is required for an individual who is not enrolled in coverage (even if the individual was offered, but rejected, such coverage).</p>	<ul style="list-style-type: none"> <li>By March 4, 2019</li> </ul>
<b>IRS Code Section 6056 reporting requirement</b>	2016	Applicable large employers <sup>2</sup>	Applicable large employers must: <ul style="list-style-type: none"> <li>report information about coverage offered and provided to their full-time employees to the IRS (Form 1095-C and Transmittal Form 1094-C), and</li> </ul>	<ul style="list-style-type: none"> <li><b>Paper returns:</b> Feb. 28, 2019</li> <li><b>Electronic filing:</b> April 1, 2019</li> </ul>
			<ul style="list-style-type: none"> <li>provide a statement to full-time employees.</li> </ul>	<ul style="list-style-type: none"> <li>By March 4, 2019</li> </ul>

<sup>1</sup>Minimum essential coverage refers in general to coverage under a government-sponsored program, such as Medicare or Medicaid; an eligible employer-sponsored plan; a plan offered in the individual market; or other coverage described in applicable regulations. It does not include HIPAA-excepted benefits such as critical illness or hospital indemnity insurance.

<sup>2</sup>Employers who are subject to the employer mandate are generally employers with at least 50 full-time employees, which are those who worked at least 30 hours per week, including full-time equivalent employees.

## Section 6055 reporting

**The Section 6055 return to the IRS must include the following information for the calendar year of coverage:**

1. Name, address and employer identification number (EIN) of the reporting entity required to file the return;
2. Name and phone number of entity contact person.
3. Name, address and Social Security number or tax identification number (TIN) or date of birth (if Social Security number or TIN is not available) of the "responsible individual." Note: The "responsible individual" is the primary covered person (insured or employee, for example) who enrolls one or more individuals, including him or herself, in minimum essential coverage;
4. Origin of coverage (Select "B. Employer-sponsored coverage.")
5. Name and Social Security number or TIN (or date of birth if Social Security number or TIN is not available) of each individual who is covered under the policy or plan who is not the responsible individual (also known as "covered individual");
6. For each covered individual, the months for which, for at least one day, the individual was enrolled in coverage and entitled to receive benefits; and
7. Any other information specified in the instructions to the forms.

## Statements to 'responsible individuals'

Typically, on or before Jan. 31 of the year following the calendar year in which minimum essential coverage is provided, every health insurance issuer and self-funded plan sponsor required to submit a 6055 report to the IRS must also provide a written statement to the "responsible individual." However, this year the deadline is March 4, 2019. **Note:** The "responsible individual" is the primary covered person (insured or employee, for example) who enrolls one or more individuals, including him or herself, in minimum essential coverage.

If mailed, the statement must be sent first-class mail to the responsible individual's last known address. The statement may be furnished electronically if the recipient affirmatively consents to receive the statement in electronic format and has not withdrawn consent prior to delivery of the statement. (See the final rule for details about the consent and withdrawal requirement, including content requirements and change in hardware/software requirements.)

The reporting entity can either provide a copy of Form 1095-B that was filed with the IRS, or provide a different statement, but such statement must include:

1. The phone number for the person designated as the reporting entity's contact person and policy number, if any;
2. Name, address and EIN of the reporting entity required to file the return;
3. The information\* required to be on the 6055 return for that individual.

\*An IRS-truncated Social Security number or TIN may be used as the identification number for an individual in lieu of the identification number appearing on the corresponding information return filed with the IRS.

## Section 6056 reporting

**The Section 6056 information return to the IRS must include the following information:**

1. Name, address and EIN of the applicable large employer and the calendar year from which the information is reported;
2. Name and phone number of the applicable large employer's contact person;
3. A certification as to whether the applicable large employer offered its full-time employees the opportunity to enroll in employer-sponsored minimum essential coverage, by calendar month;
4. The number of full-time employees for each calendar month during the calendar year;
5. For each full-time employee, the months of the calendar year that the minimum essential coverage, which provided minimum value, was offered to the employee, dependents and spouse.
6. Each full-time employee's share of the lowest cost monthly premium (self-only) for coverage providing minimum value offered to that full-time employee, by calendar month; and
7. The name, address and Social Security number or TIN of full-time employees, non-employees, dependent children and spouses during the calendar year and the months, if any, during which such individuals were covered under the plan.

## Obtaining TINs

**According to IRS regulations, a reporting entity (the insurer under fully insured business and the plan sponsor under self-funded business) must make three attempts to obtain a Social Security number or TIN from an employee:**

1. A reporting entity must make an initial solicitation at enrollment. A reporting entity may make an initial solicitation orally (by phone or in person), in writing (including using an application), or by electronic means such as e-mail.
2. If the reporting entity does not receive the Social Security number or TIN, a second solicitation is made at a reasonable time thereafter.
3. If the Social Security number or TIN is still not provided, a third solicitation is required by Dec. 31 of the year following the initial solicitation.

If a Social Security number or TIN is not provided after three attempts, according to the IRS regulations, the reporting entity has acted in a responsible manner and need not continue to solicit a Social Security number or TIN.

**When a Social Security number or TIN is solicited by mail, according to IRS regulations, the solicitation must include:**

- A letter informing the payee that he or she must provide his or her Social Security number or TIN and that he or she is subject to a \$50 penalty imposed by the IRS under Section 6723 if he or she fails to furnish his or her Social Security number or TIN;
- A Form W-9 or an acceptable substitute form on which the payee may provide the Social Security number or TIN; and
- A return envelope for the payee to provide the Social Security number or TIN which may be, but is not required to be, postage prepaid.

**According to IRS regulations, an annual solicitation may be made by telephone if the solicitation procedure is reasonably designed and carried out in a manner that is conducive to obtaining the Social Security number or TIN. An annual solicitation may be made by telephone if the filer:**

- Completes a call to each person with a missing Social Security number or TIN and speaks to an adult member of the household, or to an officer of the business or the organization;
- Requests the Social Security number or TIN of the payee;
- Informs the payee that he or she is subject to a \$50 penalty imposed by the IRS under Section 6723 if he or she fails to furnish his or her Social Security number or TIN;
- Maintains contemporaneous records showing that the solicitation was properly made; and
- Provides such contemporaneous records to the IRS upon request.

## Statements to full-time employees

Typically, on or before Jan. 31 of the year following the calendar year in which coverage is provided, every applicable large employer required to file a section 6056 return with the IRS must provide each full-time employee with a statement. This year, the deadline has been extended to March 4, 2019.

The reporting entity can either provide a copy of Form 1095-C that was reported to the IRS, or provide a different statement, but the statement must include:

1. The name, address and EIN of the applicable large employer;
2. Name and phone number of person to contact at employer.
3. The information required to be shown on Form-1095-C with respect to the offer and coverage.

**Please note:** These forms may identify the employee using an IRS-truncated Social Security number or TIN by showing only the last 4 digits of the Social Security number or TIN rather than the full Social Security number or TIN or other identifying number of the employee shown on the corresponding form with the 6056 return filed.

If mailed, the statement must be sent first-class mail to the responsible individual's last known address. The statement may be furnished electronically if the recipient affirmatively consents to receive the statement in an electronic format and has not withdrawn consent prior to delivery of the statement. The manner of consent must reasonably demonstrate the ability to access electronically. (See the final rule for details about the consent and withdrawal requirement, including content requirements and change in hardware/software requirements.)

## Penalties

Penalties for failure to file correct information returns required to be filed in 2019 and provide correct payee statements in 2019 are:

- \$50 per information return if you correctly file within 30 days (by March 30 if the due date is Feb. 28); maximum penalty \$545,500 per year (\$191,000 for small businesses).
- \$100 per information return if you correctly file more than 30 days after the due date but by Aug. 1; maximum penalty \$1,637,500 per year (\$545,500 for small businesses).
- \$270 per information return if you file after Aug. 1 or you do not file required information returns; maximum penalty \$3,275,500 per year (\$1,091,500 for small businesses).

## Waiver of penalties

The penalties may be waived if the failure was due to reasonable cause and not willful neglect. See section 6724 and Regulations section 301.6724-1 and Regulations section 1.6055-1(h). For additional information, see Pub. 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs.

## More on the reporting mandates

The IRS rules also address:

- The general method of Section 6056 reporting;
- Use of indicator codes to provide information with respect to a particular full-time employee; and
- Alternative methods for Section 6056 information reporting for eligible Applicable Large Employer members.

**PLEASE NOTE:** This material represents a high-level summary of ACA laws, rules or regulatory guidelines and is not comprehensive. It may not be construed as tax, legal or compliance advice. Please consult your professional benefits adviser or legal counsel regarding how these provisions may impact your specific benefit plan.

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