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## Health Care Reform Information Reporting (Code Sections 6055 and 6056) — Forms and Instructions Issued!

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## Overview

- ★ The Patient Protection and Affordable Care Act (“ACA”) added two new Internal Revenue Code (“Code”) Sections—6055 and 6056
  - > Code Section 6055 requires most providers of health coverage to report about individuals enrolled in minimum essential coverage and to provide individuals with statements
    - Form 1094-B (transmittal) and Form 1095-B (return/reporting form)
  - > Code Section 6056 requires reporting by employers subject to the Code Section 4980H employer shared responsibility rules (pay or play) and to provide individuals with statements
    - Form 1094-C (transmittal) and Form 1095-C (return/reporting form)

## Overview

- ★ On August 28, 2014, draft instructions were issued for the draft forms
- ★ Final forms and instructions for voluntary reporting in 2015 (for coverage offered in 2014) were issued in February of 2015
  - > Reporting in 2015 for 2014 coverage is NOT required
  - > Reporting in 2016 for 2015 coverage IS REQUIRED
- ★ We will focus on the information that must be collected and reported

## Just As A Reminder—The Pay or Play Rules!

- ✦ To avoid the payment for failing to offer coverage (4980H(a)), an Applicable Large Employer (ALE) Member needs to offer coverage to at least 70% of its full-time employees (and their dependents) in 2015
  - > For 2015: applies to ALEs with 100 or more full-time employees (including full-time equivalents) so long as certain requirements are met
    - Generally, ALE status determined in 2014
  - > For 2016 and beyond: 95% threshold for ALEs (50 or more full-time employees (including full-time equivalents))
    - Generally, ALE status determined in previous year

## Key Terms—Applicable Large Employer

- ◆ An Applicable Large Employer is one that, with respect to a calendar year, employed an average of at least 50 full-time employees (taking into account full-time employee equivalents) on business days during the preceding calendar year
  - > All entities within the same controlled group are treated as a single employer for determining the ALE status

## Key Terms—Employee

- ✦ An employee is an individual who is an employee under the common law standard
  - > Does not include a sole proprietor, a partner in a partnership, or a 2% S corporation shareholder
    - Also excluded are leased employees who are not common law employees of the employer that receives the services
- ✦ A full-time employee is an employee who was employed on average at least 30 hours of service per week

## Key Terms—Hours of Services

- ★ Hours of Service are used for identifying Full-Time Employees and Calculating Hours for FTEs
- ★ Hours of Service include:
  - > (1) each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer, and
  - > (2) each hour an employee is paid, or entitled to payment, on account of a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence

## Key Terms—Hours of Services

- ♦ For employees paid on an hourly basis, calculate actual hours of service from records of hours worked and hours for which payment is made or due for vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence

## Key Terms—Hours of Services

- ◆ For employees NOT paid on an hourly basis, calculate hours of service under any of the following:
  - > (1) counting actual hours from records of hours worked and hours for which payment is made or due for vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, OR

## Key Terms—Hours of Services

- > (2) using a days-worked equivalency method whereby the employee is credited with eight hours of service for each day for which the employee would be required to be credited with at least one hour of service under these service crediting rules, OR
- > (3) using a weeks-worked equivalency of 40 hours of service per week for each week for which the employee would be required to be credited with at least one hour of service under these service crediting rules

## Key Terms—Method Used To Determine Full-Time Employee

- ✦ There are 2 different methods for determining the number of full-time employees:
  - > (1) The monthly measurement method, and
  - > (2) The look-back measurement method
- ✦ With respect to each of the categories listed below, the employer may apply either the look-back measurement method or the monthly measurement method:
  - > Salaried and hourly employees
  - > Employees whose primary places of employment are in different states
  - > Collectively bargained employees and non-collectively bargained employees
  - > Each group of collectively bargained employees covered by a separate collective bargaining agreement

## Back to Reporting!

- ♦ Now that we have discussed some of the key terms, let's review the actual reporting obligations!

## Overview

### ♦ At a very high level:

- > Forms 1094-B & 1095-B are used to report that the person was covered under an insured plan (with some exceptions)
  - These forms are predominately used by the insurance carriers (with some exceptions)
  - Most employers will not use these forms
  - These forms are used by the IRS to determine if an individual has meet his obligation under the individual mandate

## Overview

### ♦ At a very high level:

- > Forms 1094-C & 1095-C are used to report the employer's compliance with the employer shared responsibility rules (pay or play) and to report its employees who are covered under a self-funded plan
  - All Applicable Large Employer Members will file this form
  - It serves 3 main purposes: (1) to determine if the employer met its obligation under the pay or play rules, (2) to report which employees met their individual mandate requirement by having coverage under the employer's self-funded plan and (3) determining if an employee is eligible for the premium assistance for coverage on the public Exchange

## Overview

### ♦ Applicable Large Employer

- > Insured Plan — Applicable Large Employer Member files Forms 1094-C & 1095-C Parts I and Parts II (and not Part III). Insurer files Forms 1094-B & 1095-B
- > Self-Insured Plan — Applicable Large Employer Member files Form 1094-C & 1095-C, Parts I, II and III
- > Remember, EACH Applicable Large Employer **Member** files for its OWN common law employees

## Special Rules

- ★ Small employers that are not subject to the employer shared responsibility rules that sponsor self-insured plans will use Forms 1094-B & 1095-B
- ★ Sponsors of self-insured multiemployer plans will use Forms 1094-B & 1095-B
  - > This is the committee or joint board of trustees
  - > While the multiemployer plan will report about the coverage, the employer (if an Applicable Large Employer Member) will still need to report its full-time employees on the Forms 1094-C & 1095-C—including any of those covered by the multiemployer plan

## Special Rules

- ★ A government employer may designate another government entity to report coverage of its employees. Generally, a designated government entity will use Forms 1094-B & 1095-B to report coverage

## Forms 1094-B and 1095-B

- ★ Section 6055 of the Internal Revenue Code provides that every provider of minimum essential coverage (MEC) will report coverage information by filing an information return with the IRS and furnishing a statement to individuals
- ★ Form 1094-B is the transmittal and Form 1095-B is the return
- ★ These forms are first effective for coverage provided in 2015
  - > There is voluntary reporting for 2014 coverage

## Who Must Report Under IRC Section 6055

- ✦ Any person who provides MEC to an individual must report to the IRS and furnish statements to individuals, including the following:
  - > Health insurance issuers for insured coverage (with certain limited exceptions)
    - This is done by the insurance carrier on Form 1095-B
  - > Plan sponsors of self-insured group health plan coverage
    - For most self-insured plans, this is done on Form 1095-C, Part III

## IRC Section 6055—What is MEC

- ♦ MEC includes the following:
  - > Eligible employer-sponsored coverage, including COBRA and retiree coverage
- ♦ MEC does not include coverage consisting solely of excepted benefits

## IRC Section 6055—Additional or Supplemental Coverage

- ★ No reporting is required under 6055 for additional or supplemental benefits that are MEC if:
  - > the primary and supplemental coverages have the same plan sponsor, or
  - > the coverage supplements government-sponsored coverage such as Medicare

## IRC Section 6055—What Information Must Be Reported

- ★ The information that must be reported on Form 1095-B and on Part III of Form 1095-C is essentially the same—both are meeting the reporting requirements set forth in IRC Section 6055
  - > Biggest issue is the collection of the data and the time needed to prepare the forms
- ★ We will walk through Part III of Form 1095-C

## Form 1095-C

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

<b>Form 1095-C</b> Department of the Treasury Internal Revenue Service		<b>Employer-Provided Health Insurance Offer and Coverage</b> ▶ Information about Form 1095-C and its separate instructions is at <a href="http://www.irs.gov/f1095c">www.irs.gov/f1095c</a> .				<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		600115 OMB No. 1545-2251 <b>2014</b>							
<b>Part I Employee</b>				<b>Applicable Large Employer Member (Employer)</b>											
1 Name of employee		2 Social security number (SSN)		7 Name of employer			8 Employer identification number (EIN)								
3 Street address (including apartment no.)				9 Street address (including room or suite no.)			10 Contact telephone number								
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code					
<b>Part II Employee Offer and Coverage</b>															
14 Offer of Coverage (enter required code)	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec		
	15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$		
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)															
<b>Part III Covered Individuals</b>															
If Employer provided self-insured coverage, check the box and enter the information for each covered individual. <input type="checkbox"/>															
(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.				Cat. No. 60705M				Form 1095-C (2014)							

## IRC Section 6055—Reporting on Part III of Form 1095-C

- ✦ Line 17(a)—Name of Covered Individual
- ✦ Line 17(b)—Social Security Number of the Covered Individual
- ✦ Line 17(c)—Enter the Covered Individual's Date of Birth ONLY IF column 17(b) is blank and you were unable to obtain the SSN (see later slides)
- ✦ Line 17(d)—Check this box if the individual was covered for at least one day per month for all 12 months of the calendar year
- ✦ Line 17(e)—If the Covered Individual was not covered for all months, check the box(es) for the months in which the individual was covered for at least one day

## REMEMBER!

- ★ Remember, an Applicable Large Employer Member that provides coverage through a self-insured health plan must report for any individual (including any full-time employee, non-full-time employee, employee family members, and others) who enrolled in the self-insured health plan
  - > Again, this is done on Part III of the Form 1095-C

## IRC Section 6055

- ✦ A provider must report the SSN for ALL covered individuals
  - > Insurance carrier doing this for insured plans
  - > Employer doing this for self-insured plans
- ✦ If a provider is unable to obtain a SSN after making a reasonable effort to do so, the covered individual's date of birth may be reported in lieu of a SSN

## IRC Section 6055

### ♦ Reasonable Effort

- > A provider will not be subject to a penalty if it demonstrates that it properly solicits the SSN but does not receive it
- > The reporting entity must make an initial solicitation at the time the relationship is established
- > If it does not receive it, the first annual solicitation is generally required by December 31 of the year in which the relationship begins (January 31 of the following year if the relationship begins in December)

## IRC Section 6055

### ♦ Reasonable Effort (continued)

- > If the SSN is still not provided, a second annual solicitation is required by December 31 of the following year
- > If the SSN is still not provided, the reporting entity need not continue to solicit the SSN

## Information to Individuals—IRC Section 6055

- ✦ Must furnish a copy of the form to the person identified as the Responsible Individual on the form
  - > Or provide a “substitute statement”
- ✦ On the statements furnished to individuals, the SSN of the covered individuals may be truncated by showing only the last 4 digits of the SSN and replacing the first 5 digits with \*\*\*\*\*
- ✦ Truncation is not allowed on forms filed with the IRS

## Information to Individuals—IRC Section 6055

- ★ Statements must be furnished on paper by mail, unless the recipient affirmatively consents to receive the specific form in electronic format
  - > The special rules for electronic disclosure are not described in detail in this presentation
- ★ If mailed, the statement must be sent to the recipient's last known permanent address, or if no permanent address is known, to the temporary address

## Information to Individuals – IRC Section 6055

- ♦ Statements to Responsible Individuals must be furnished on or before January 31 of the year immediately following the calendar year to which the statements relate (e.g., February 1, 2016 for 2015 statements)

## How and When to File with the IRS

- ★ The Forms must be filed with the IRS on or before February 28 (March 31 if filed electronically) of the year following the year in which it provided MEC
- ★ A provider that is required to file 250 or more Forms 1095-B, or 250 or more Forms 1095-C during a calendar year must file the returns with the IRS electronically

## IRC Section 6056

- ✦ ACA added Code Section 6056, which requires Applicable Large Employers to file information returns with the IRS about its compliance with the pay or play rules
  - > This is reported on Forms 1094-C and 1095-C, Parts I and II
- ✦ An Applicable Large Employer (ALE) determination is made by looking at the entire controlled group
- ✦ These reporting requirements apply to each separate entity and each separate entity is referred to as an applicable large employer member (ALE Member)
- ✦ See earlier slide for Form 1095-C

# Form 1094-C

♦ <http://www.irs.gov/pub/irs-pdf/f1094c.pdf>

<b>Form 1094-C</b> Department of the Treasury Internal Revenue Service		<b>Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns</b> Information about Form 1094-C and its separate instructions is at <a href="http://www.irs.gov/f1094c">www.irs.gov/f1094c</a> .		<input type="checkbox"/> CORRECTED	120115 OMB No. 1545-2251 <b>2014</b>
<b>Part I Applicable Large Employer Member (ALE Member)</b>					
1 Name of ALE Member (Employer)		2 Employer identification number (EIN)			
3 Street address (including room or suite no.)					
4 City or town		5 State or province		6 Country and ZIP or foreign postal code	
7 Name of person to contact			8 Contact telephone number		
9 Name of Designated Government Entity (only if applicable)		10 Employer identification number (EIN)			
11 Street address (including room or suite no.)					
12 City or town		13 State or province		14 Country and ZIP or foreign postal code	
15 Name of person to contact			16 Contact telephone number		
17 Reserved					<b>For Official Use Only</b> 
18 Total number of Forms 1095-C submitted with this transmittal					
<b>Part II ALE Member Information</b>					
19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions <input type="checkbox"/>					
20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member					
21 Is ALE Member a member of an Aggregated ALE Group? <input type="checkbox"/> Yes <input type="checkbox"/> No					
If "No," do not complete Part IV.					
22 Certifications of Eligibility (select all that apply):					
<input type="checkbox"/> A. Qualifying Offer Method		<input type="checkbox"/> B. Qualifying Offer Method Transition Relief		<input type="checkbox"/> C. Section 4980H Transition Relief	
<input type="checkbox"/> D. 98% Offer Method					
Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.					
Signature		Title		Date	
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.		Cat. No. 61571A		Form 1094-C (2014)	

# Form 1094-C

120215

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Form 1094-C (2014)

**Part III ALE Member Information—Monthly**

		(a) Minimum Essential Coverage Offer Indicator		(b) Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Section 4980H Transition Relief Indicator
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29	June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30	July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

Form 1094-C (2014)

# Form 1094-C

120315

Form 1094-C (2014)

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**Part IV Other ALE Members of Aggregated ALE Group**

Enter the names and EINs of Other ALE Members of the Aggregated ALE Group (who were members at any time during the calendar year).

Name	EIN	Name	EIN
36		51	
37		52	
38		53	
39		54	
40		55	
41		56	
42		57	
43		58	
44		59	
45		60	
46		61	
47		62	
48		63	
49		64	
50		65	

Form 1094-C (2014)

## Forms 1094-C and 1095-C—Who Must File

- ✦ An employer that provides health coverage through a self-insured health plan must complete Form 1095-C, Part I and Part III FOR ANY EMPLOYEE who enrolls in the health coverage, regardless of whether the employee is full-time for any month of the calendar year
- ✦ If an employee is a full-time employee for ANY month of the calendar year, the employer must also complete Part II
  - > If, for all 12 months of the calendar year, the employee is not a full-time employee, the employer must complete only Part II, line 14, by entering code 1G in the “All 12 Months” column

## Forms 1094-C and 1095-C—Who Must File

- ♦ If an employer is providing health coverage in another manner, such as through an insured health plan or a multiemployer health plan, the issuer of the insurance or the sponsor of the plan providing the coverage will provide information about their health coverage, and the employer should not complete Form 1095-C, Part III, for those employees

## Form 1094-C—Authoritative Transmittal

- ✦ A Form 1094-C (transmittal) must be filed with any Forms 1095-C filed by an employer
- ✦ An employer must file a single Form 1094-C (transmittal) reporting aggregate employer-level data for all full-time employees of the employer and identify on the Form 1094-C (transmittal), as the Authoritative Transmittal
- ✦ One Authoritative Transmittal must be filed for each employer

## One Form 1095-C For Each Employee of Each Employer

- ✦ For each full-time employee of an employer, there must be only one Form 1095-C for employment with that employer
- ✦ A full-time employee who works for more than one employer that is a member of the same aggregated ALE group (that is, works for 2 separate ALE members), must receive a separate Form 1095-C from each employer
  - > For example, the full-time employee works for subsidiary A for 3 months and subsidiary B for 9 months
  - > However, if the employee works for more than one ALE member in the same calendar month, the employee is treated as the employee only of the ALE member for which the employee has the greatest number of hours for the month

## Specific Instructions for Form 1094-C

### ♦ Part I—ALE Member

- > Lines 1 & 2—Enter the employer's name and EIN
- > Lines 3-6—Enter the employer's complete address
- > Lines 7-8—Enter the name and telephone number of the person to contact to ask questions
- > Lines 9-16—These lines are only used for a Designated Governmental Entity (DGE)
- > Line 17—Reserved, no information
- > Line 18—Enter the total number of Forms 1095-C submitted with the Form 1094-C transmittal

## Specific Instructions for Form 1094-C

### ♦ Part II—ALE Member Information

- > Line 19—If this is the Authoritative Transmittal to report aggregate employer-level data for the employer, check line 19 and complete Part II
  - There must be only one Authoritative Transmittal filed for each employer

## Specific Instructions for Form 1094-C

### ♦ Part II—ALE Member Information

- > Line 20—Enter the total number of Forms 1095-C that will be filed by and/or on behalf of the employer
- > Line 21—If during any month of the calendar year the employer was a member of an Aggregate ALE Group, check “Yes”

## Specific Instructions for Form 1094-C

- ✦ Line 22—If the employer meets the eligibility requirements and is using one of the Offer Methods and/or one of the forms of Transition Relief, it must check the applicable boxes
  - > Box A—Qualifying Offer Method
    - Check this box if the employer is using this for one or more full-time employee
    - To be eligible, the employer must certify that, for all months during the year in which the employee was a full-time employee for whom the pay or play penalty could apply, the employer made a qualifying offer

## Specific Instructions for Form 1094-C

- > Line 22—Box A (continued)
  - Qualifying Offer is an offer of MEC providing minimum value to one or more full-time employees for all calendar months during the year for which the employee was a full-time employee for whom a pay or play payment could apply, at an employee cost for employee-only coverage for each month not exceeding 9.5% of the mainland single federal poverty line divided by 12, provided that the offer includes an offer of MEC to the employee's spouse and dependents
    - For 2014, that was about \$92 a month

## Specific Instructions for Form 1094-C

- > Line 22, Box B—2015 Qualifying Offer Method Transition Relief
  - To be eligible for this, the employer must certify that it made a Qualifying Offer for one or more months of the calendar year 2015 to at least 95% of its full-time employees

## Specific Instructions for Form 1094-C

- ◆ Line 22, Box C—Section 4980H Transition Relief
  - > This box is checked if either: (1) the 2015 Transition Relief for ALEs with fewer than 100 full-time employees (including full-time equivalents) (the 50-99 transition relief) or (2) 2015 Transition Relief for Calculation of Assessable Payments Under Section 4980H(a) for ALEs with 100 or More Full-Time Employees (including Full-Time Equivalents) apply
    - #2 if used by an employer that owes a penalty under 4980H(a) and it refers to the 80 employee reduction in the 4980H(a) penalty, rather than the 30 employee reduction

## Specific Instructions for Form 1094-C

### ♦ Line 22, Box D—98% Offer Method

- > To be eligible for this method, an employer must certify that it offered, for all months of the calendar year, affordable health coverage (determined under any of the 4980H affordability safe harbors) providing minimum value to at least 98% of its employees and their dependents for whom it is filing a Form 1095-C statement

## Specific Instructions for Form 1094-C

### ♦ Part III—ALE Member Information—Monthly

#### > Column (a) MEC Offer Indicator

- If the employer offered MEC to at least 95% of its full-time employees and their dependents for the entire calendar year, indicate that on the form—and if only for certain months, then indicate the months
  - Use the 70% standard for coverage offered in 2015
- The employer does not count an employee in a Limited Non-Assessment Period (see instructions for specific definition)
- There are several transition relief rules that can be relied on in this section such as: (1) the 70% standard and (2) multiemployer arrangement interim guidance

## Specific Instructions for Form 1094-C

### ♦ Part III—ALE Member Information—Monthly

- > Column (b)—Enter the number of full-time employees for each month, but do not include any employee in a Limited Non-Assessment Period
  - If the employer certified that it was eligible for the 98% Offer Method by selecting Box D on Line 22, it is not required to complete column (b)

## Specific Instructions for Form 1094-C

### ♦ Part III—ALE Member Information—Monthly

- > Column (c)—Enter the total number of employees, including full-time employees and non-full-time employees, for each calendar month
  - May chose one of the following days to determine the number of employees per month and must use the same day for all months of the year: (1) first day of each month, (2) the last day of each month, (3) the first day of the first payroll period that starts during each month, or (4) the last day of the first payroll period that starts during each month (provided that for each month that last day falls within the calendar month in which the payroll period starts)

## Specific Instructions for Form 1094-C

### ♦ Part III—ALE Member Information—Monthly

- > Column (d) Aggregated Group Indicator—Must indicate it was part of an aggregated group for the entire year or just certain months
- > Column (e) Code Section 4980H Transition Relief Indicator—If eligible for Code Section 4980H Transition Relief and is eligible for 50-99 Relief, enter Code A. If eligible for IRC Section 4980H Transition Relief and is eligible for the 100 or More Relief, enter Code B

## Specific Instructions for Form 1094-C

### ♦ Part IV—Other ALE Members of Aggregated ALE Groups

- > Lines 36-65—If the employer was a member of an Aggregated ALE Group for any month of the calendar year, enter the names and EIN of up to 30 of the other Aggregated ALE members
  - If more than 30, enter the 30 with the highest monthly average number of full-time employees for the year
  - List the members in descending order listing first the member with the highest average monthly number of full-time employees

## Specific Instructions for Form 1095-C

### ♦ Part I—Employee

- > Lines 1-6—Enter the name of the employee, the SSN and the employee's complete address

### ♦ Part I—ALE Member (Employer)

- > Lines 7-13—Enter the name of the employer, the employer EIN, the complete address and the telephone number of the person to contact about more information reported on the form

## Specific Instructions for Form 1095-C

### ♦ Part II—Employee Offer and Coverage

- > Line 14—For each month, enter the applicable code from Code Series 1. If the same code applies for all 12 calendar months, enter the applicable code in the all 12 months box
  - A code must be entered for each calendar month, even if the employee was not a full-time employee for one or more of the calendar months
  - Enter the code identifying the type of coverage actually offered by the employer to the employee
    - This may be difficult for ALE members that contribute to multiemployer plans as the ALE members do not receive actual eligibility information from the multiemployer plans

## Specific Instructions for Form 1095-C

### ◆ Part II—Employee Offer and Coverage

#### > Line 14, Code Series 1

- 1A—Qualifying Offer (MEC providing minimum value with employee contribution for self-only coverage equal to or less than 9.5% mainland single federal poverty line and at least MEC offered to spouse and dependents)
- 1B—MEC providing minimum value offered to employee only
- 1C—MEC providing minimum value offered to employee and MEC offered to dependents
- 1D—MEC providing minimum value offered to employee and MEC offered to spouse (not dependents)

## Specific Instructions for Form 1095-C

### ♦ Part II—Employee Offer and Coverage

#### > Line 14, Code Series 1

- 1E—MEC providing minimum value offered to employee and MEC offered to dependents and spouse
- 1F—MEC not providing minimum value offered to employee, or employee and spouse or dependents, or employee, spouse and dependents
- 1G—Offer of coverage to employee who was not a full-time employee for any months of the calendar year and who enrolled in self-insured coverage for one or more months of the calendar year

## Specific Instructions for Form 1095-C

### ♦ Part II—Employee Offer and Coverage

#### > Line 14, Code Series 1

- 1H—No coverage offered or employee offered coverage that is not MEC
- 1I—Qualified Offer Transition Relief

## Specific Instructions for Form 1095-C

### ♦ Part II—Employee Offer and Coverage

- > Line 15—Complete this only if the coverage offered to the employee provided minimum value and code 1B, 1C, 1D or 1E was entered on line 14
  - Enter the amount of the employee share of the lowest-cost monthly premium for self-only MEC that provides minimum value
  - If the employer did not offer health coverage or it offered health coverage that was not MEC or did not provide minimum value, do not complete this line

## Specific Instructions for Form 1095-C

### ◆ Part II—Employee Offer and Coverage

> Line 16—For each month, enter the applicable Code from Series 2 per calendar month

- 2A—Employee not employed during the month. Only enter this code if the employee was not employed on any day of the month

- 2B—Employee was not a full-time employee and did not enroll in MEC

- 2C—Employee enrolled in coverage offered. **Note**—if the employee enrolled in MEC offered for the month, enter this code and not any other code in Series 2 that may apply

## Specific Instructions for Form 1095-C

- 2D—Employee in a 4980H Limited Non-Assessment Period
- 2E—Multiemployer interim rule relief
- 2F—Section 4980H affordability Form W-2 safe harbor
- 2G—Section 4980H affordability federal poverty line safe harbor
- 2H—Section 4980H affordability rate of pay safe harbor
- 2I—Non-calendar year transition relief applies to this employee

## Specific Instructions for Form 1095-C

### ♦ Part III—Covered Individuals

- > Complete this part ONLY if the employer offers employer-sponsored self-insured health coverage in which the employee is enrolled
- > This part must be completed by an employer offering self-insured coverage for any employee who enrolled in coverage, regardless of whether the employee is a full-time employee
- > However, employer-sponsored self-insured health coverage does NOT include coverage under a multiemployer plan

## Specific Instructions for Form 1095-C

### ♦ Part III—Covered Individuals

- > Employers that offer employer-sponsored self-insured health coverage to non-employees, the instructions state that this Part III can be completed or the 1094-B/1095-B can be used
- > The exact language from the instructions is on the next slide

## Specific Instructions for Form 1095-C

- ★ **Coverage of Non-Employee.** This part **may** be completed by an employer offering self-insured health coverage for any other individual who enrolled in the coverage under the plan for one or more calendar months of the year but was not an employee for any calendar month of the year, such as a non-employee director, a retired employee who retired in a previous year, a terminated employee receiving COBRA coverage who terminated employment during a previous year, and a non-employee COBRA beneficiary...If the Form 1095-C is used with respect to an individual who was not an employee for any month of the calendar year, Part II must be completed by using Code 1G in the “All 12 Months” box or the box for each month of the calendar year.

## Forms 1094-C and 1095-C

### ♦ When to File

- > By February 28<sup>th</sup> if filing on paper (or March 31 if filing electronically) of the year following the year in which the return relates
  - Same rules as discussed in earlier slide apply regarding when filing electronically is required
- > Form 1095-C must be furnished to the individual by January 31 of the year following the year to which the return relates
  - The first forms are due to individuals by February 1, 2016

## Forms 1094-C and 1095-C

### ♦ How to File

- > These forms are subject to the requirements to file returns electronically that were discussed earlier
- > Same rules for delivery to employees that were discussed earlier

## Open Question

- ◆ There are a lot of open questions, such as the following:
  - > Pre-65 Retiree HRAs—These are MEC.
    - How are these reported?
    - Is there coverage for every month, so long as there is a balance?
    - Do you report coverage for every person covered by the HRA, such as the spouse and children?

## Open Question

- ★ This seems to be the first time that employers are declaring to the IRS which method is being used to determine full-time employee status under IRC 4980H—monthly measurement method or look-back measurement method
- ★ There does not seem to be any other form in which the employer makes this declaration

## Open Question

- ★ What About Employees Acquired Through M&A
  - > In a stock deal, this is not a new employee
  - > Assume in a stock deal that Buyer uses one testing method to determine full-time employee status and Target uses another method

## Open Question

- ♦ From IRS Notice 2014-49, “Until further guidance is issued, and in any case through the end of calendar year 2016, taxpayers involved in a corporate transaction in which employers use different measurement methods may rely on the approach described in this notice in determining an employee’s status as a full-time employee for purposes of § 4980H. For example, assume that one corporation (Target) merges into another corporation (Acquirer) and that both corporations use the look-back measurement method but with different measurement periods. The corporations may apply the approach set forth in section III of this notice by treating the Target employees as having transferred at the date of the merger from one position (at Target) to another position (at Acquirer) with a different measurement period.”

## Open Question

- ✦ That IRS Notice is complex and we cannot discuss it in detail in this presentation, but we will provide a high-level example
- ✦ Assume that Adam was employed in one position (the “first position”) in which the employer uses the look-back measurement method
- ✦ Adam transfers to another position, (the “second position”) for which the employer also uses the look-back measurement method, but with a different measurement period

## Open Questions

- ★ Following the transfer, the employer includes hours of service earned in the first position either by counting the hours of services used in the counting method applied to Adam in the first position, or recalculating the hours of service earned in the first position using the hours of service counting method applied to Adam in the second position
- ★ If Adam is in a stability period applicable to the first position as of the date of transfer, Adam's status as full-time employee (or not) for the first position remains in effect until the end of that stability period

## Open Question

- ♦ If Adam is not in a stability period (because he is fairly new and has not completed a full measurement period), Adam's status as a full-time employee (or not) is determined solely under the look-back measurement method applicable to the second position as of the date of transfer, including all hours of service in the first position

## Open Question

- ♦ In a stock deal, if the Target is not an ALE member but the Buyer is an ALE member, then it appears that the prior hours with the Target should not matter
- ♦ Unclear about how to treat an asset deal

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