



Subject: **IRS Releases Draft Instructions for ACA Shared Responsibility Reporting**

Date: September 15, 2014

On August 28, 2014, the Internal Revenue Service (IRS) issued draft instructions for the annual reporting that will be required by employers subject to the Affordable Care Act's shared responsibility requirements, as well as by plans providing minimum essential coverage (MEC). These forms are the 1094 and 1095 B-series for reporting MEC, and the 1094 and 1095-C series for reporting employer provided coverage required specifically by employers subject to shared responsibility. These draft forms were issued in late July (see CBIZ Health Reform Bulletin, [IRS Releases Draft Section 6055 and 6056 Reporting Forms](#)); below are links to the recently issued draft instructions that pertain to the forms:

- [Instructions for Forms 1094-B and 1095-B](#)
- [Instructions for Forms 1094-C and 1095-C](#)

It is important to note that these instructions and forms are drafts only and subject to change.

For purposes of both sets of forms, the Form 1094 is the transmittal form submitted to the IRS; the Form 1095 is the benefit statement provided to plan participants. There are some simplified reporting methods that can be used in certain circumstances. These will be discussed in our upcoming webinar mentioned below.

The **B Series** of these forms is used to report MEC and is prepared by the insurer for insured plans, and by the plan sponsor of a self-funded plan (a self-funded plan sponsor subject to shared responsibility can accomplish this obligation by completing Part III of the Form 1095-C). This report advises the IRS about whether the individual was covered by MEC. This requirement applies without regard to plan size.

The **C Series** of these forms is applicable only to employers subject to shared responsibility. It is used by the IRS to determine who is entitled to premium assistance, as well as determine whether an employer subject to shared responsibility might be at risk for an IRC §4980H(a) no-coverage tax, or an IRC §4980H(b) inadequate or unaffordable tax. The instructions provide fairly explicit information about how to complete the transmittal Form 1094-C and the benefit statement (Form 1095-C) with regard to the 'who' (employee, spouse, dependent), the 'what' (MEC, minimum value) and 'how much' (is it affordable?) conditions of the coverage being offered.

In a nutshell, the reporting requires for each month of the calendar year, a representation of who is a full-time employee, whether that full-time employee, his/her spouse or his/her children were offered coverage, whether that coverage met minimum value, and whether it was affordable. And for each month for which coverage was not offered, a representation as to why the coverage was not offered; for example, for reasons such as the individual was not

employed during that month, the individual was not full-time, or the individual was in a limited non-assessment period, such as a waiting period or an initial measurement period

Further, the reporting rules require the use of employee's social security number (SSN); and for employers required to complete Part III of the Form 1095-C, the SSNs of the dependents must also be collected which might create an additional burden on employers.

The applicable employer would be required to file Forms 1094-C and 1095-C with the IRS and to furnish a copy of Form 1095-C to the employee. Below is a quick snapshot of the type of information required for these forms.

Form 1094-C

- Part I of the form requests identifying information about the “applicable large employer” such as name, EIN, address and contact information of the person submitting the form.

- Part II requests further details relating to whether the reporting employer is part of an aggregated group, the number of 1095-C forms filed by the reporting entity, and indication of the applicable type(s) of coverage utilized by the employer in its offer of health coverage to its full-time employees.

- Part III is set up in a chart format. Here a reporting entity would complete a month by month tally of whether an employer offered MEC to 95% of its full-time employees and their dependents, the number of full-time and non-full-time employees employed for each month, the number of months the reporting employer was part of an aggregated group if applicable, and whether the employer certifies eligibility for transition relief available for employers employing between 50-99 employees, or 100 or more employees. It is important to note that all covered lives must be reported, whether full-time or not.

Form 1095-C

The Form 1095-C is used to report information to the IRS about each employee and for determining eligibility for premium tax credits. It is also provided to each employee included in the report.

- Part I requests the name, social security number and mailing address for each employee as well as identifying information about the “applicable large employer” such as name, EIN, address and contact information of the person submitting the form.

- Part II requires an indicator code to be entered on a per month basis of the type of coverage offered to the employee. For example, Code 1A would designate a qualifying offer of MEC providing minimum value offered to full-time employees and their dependents with the employee contribution for self-only coverage not to exceed 9.5% of household income. Then, the employer would enter the employee's share of the lowest cost monthly premium for self-only minimum value coverage. Depending on the indicator code entered, a reporting entity would then indicate by using another series of codes whether any of the IRC 4980H safe harbor codes need be used. For example, a Code 2A would designate an employee who is not full-time. A Code 2F would designate that a W-2 safe harbor is used as it relates to affordability.

- ❑ Part III, Covered Lives, need only be completed if an employer sponsors a self-insured plan in which the employee enrolled, regardless of whether the employee works full-time.

Due Date. The instructions make clear that the reporting is required to begin in 2015. Employers may, but are not required to, report for the 2014 tax year. Note, even if an employer chooses to report for the 2014 tax year, no penalty will be assessed as the shared responsibility requirement will not take effect until 2015.

Upcoming CBIZ Webinar. Please join us for an upcoming CBIZ Employee Services webinar, “*Report Overload! Are You Meeting Your Requirements?*” scheduled for Tuesday, October 21, 2014 where these forms will be discussed in greater detail. Click [here](#) for additional information about this webinar and/or to register to attend the webinar.

Additional information about these reporting requirements is available from IRS website:

- [Questions and Answers on Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\)](#)
- [Questions and Answers on Information Reporting by Health Coverage Providers \(Section 6055\)](#)

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