Are You Ready For ACA Reporting?

Benefit Advisors Network

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Agenda

• Pay-or-Play Mandate

• 2015 ACA Reporting
  • Provider Reporting (Section 6055)
  • Employer Reporting (Section 6056)
  • Form Detail
  • Reporting for COBRA Participants
  • Simplified Reporting
  • Common Questions
Pay-or-Play Mandate

- Applies to applicable large employers (ALEs)
- Company is an ALE if it employs, on average, 50 or more full-time equivalents (FTEs) in preceding year
  - ALE determined on a controlled group basis
- Can use any period of at least 6 consecutive months in 2014 to determine ALE status for 2015
- Effective January 1, 2015
  - Delayed until 2016 for most employers with 50 – 99 FTEs on average in 2014
  - Transition Relief For Fiscal Year Plans
- *ACA reporting applies to all employers with 50+ FTEs on average in 2014*
Pay-or-Play Mandate – $2,000 Penalty

“No Offer” Penalty – Employers that do not offer coverage

- Employers that do not offer health coverage to at least 95% (70% for 2015) of all full-time employees (and their children under age 26) are subject to a penalty

- Annual penalty is $2,000 × all full-time employees reduced by 30 if one or more full-time employees receive a federal premium subsidy
  - Reduction increased to 80 in 2015 for employers with 100+ FTEs in 2014

- Penalty is assessed monthly
  - $166.67 per full-time employee per month

- Assessment is entity-by-entity within a controlled group
Pay-or-Play Mandate – $3,000 Penalty

“Unaffordability” Penalty – Employers with “unaffordable” coverage

• Coverage is “affordable” if:
  • Employee’s cost for single coverage does not exceed 9.5% of household income (or W-2 wages or another permitted safe harbor), and
  • Plan provides “minimum value”

• Annual penalty is $3,000 for each full-time employee who receives a federal premium subsidy (not to exceed the "no offer" penalty)

• Penalty is assessed monthly ($250 per subsidy-receiving full-time employee per month)

• Assessment is entity-by-entity within a controlled group
What is Affordable Coverage?

• Cost for employee-only coverage under lowest cost plan that provides minimum value cannot exceed 9.5% (as indexed) of:
  • **W-2 (Box 1)**
    • Must wait to end of year to confirm
  • **Rate of Pay** (monthly cost cannot exceed 9.5% of hourly rate of pay × 130)
    • E.G.: $10 per hour—affordable if employee not charged more than $123.50 per month for employee-only coverage
  • **Federal Poverty Level** (FPL)
    • Use FPL based on the state in which employee is employed
    • In 2015, coverage is affordable if cost does not exceed $93 / month

• **Per Notice 2015-87, employers may use the indexed thresholds:** 9.56% for 2015 and 9.66% for 2016
Indexing Pay-or-Play Penalties

• Annual pay-or-play penalties are indexed to increase each calendar year after 2014
  • 2014: $2,000 / $3,000
  • 2015: $2,080 / $3,120
  • 2016: $2,160 / $3,240
CBO Estimates

- Budget Office estimates that by 2019, the federal government can expect to collect up to $17 billion in penalties stemming from the individual mandate as well as $53 billion from the employer mandate.

- Simply put, this is a major factor in how the ACA will be funded and employers must be prepared.

- In 2015, the federal government will spend $28 billion on premium subsidies for people who buy their insurance there.

- By 2023 (10th year), the federal government will be spending $134 billion on subsidies.
ACA Reporting
ACA Reporting Overview

- **Provider Reporting** – Code Section 6055
  - Used to enforce the Individual Mandate
  - Applies to:
    - Insurance Companies
    - Employers with Self-Insured Plans
    - Multiemployer Plans
    - Governmental Plans

- **Employer Reporting** – Code Section 6056
  - Used to enforce the Employer Mandate and administer Premium Tax Credit program
  - Applies to:
    - Applicable Large Employers — 50+ full-time equivalents on average in prior calendar year
    - Employers report full-time employees under §6056; however, if self-insured, employer must report on all covered employees to comply with §6055
ACA Reporting: Due Dates EXTENDED

The first statements and returns required to be filed are for the 2015 calendar year, and must be sent to employees by March 31, 2016 and filed no later than May 31, 2016, or June 30, 2016, if filed electronically (electronic filing required for employers filing 250 or more forms, although hardship waivers from the electronic filing requirements may be available via Form 8508).

IRS will not respond formally to requests for extensions for CY2015, as these latest extensions apply automatically and are more generous.

<table>
<thead>
<tr>
<th></th>
<th>Old Deadline</th>
<th>New Deadline</th>
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<tbody>
<tr>
<td>Deadline to Distribute Forms to</td>
<td>February 1, 2016</td>
<td>March 31, 2016</td>
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<tr>
<td>Employees and Covered Individuals</td>
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<tr>
<td>Deadline to File with the IRS</td>
<td>February 29, 2016</td>
<td>May 31, 2016 (non-electronic)</td>
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ACA Reporting Overview

- Employer mandate penalties and reporting apply at EIN/tax ID level
  - Each entity with its own tax ID reports separately for its own employees
- However, ALE status is determined on a controlled group basis
  - Section 6056 reporting (Form 1094-C) requires disclosure of controlled group members
  - Employers will need to report related entities:
    - Parent-Subsidiary controlled group
    - Brother-Sister controlled group
    - Affiliated Service Groups
    - Familial attribution rules apply
  - Talk to ERISA counsel if analysis is needed
## ACA Reporting Quick Reference Chart

<table>
<thead>
<tr>
<th>Insurance Carrier</th>
<th>Fully Insured Plan</th>
<th>Self-Insured Plan</th>
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<tbody>
<tr>
<td><strong>Non-ALE</strong> (Small Employer: Fewer than 50 full-time equivalent employees on average in prior calendar year)</td>
<td>Forms 1094-B and 1095-B</td>
<td>Not Applicable</td>
</tr>
<tr>
<td><strong>ALE</strong> (Applicable Large Employer: 50 or more full-time equivalent employees on average in prior calendar year)</td>
<td>Forms 1094-C and 1095-C (Parts I and II only)</td>
<td>Forms 1094-C and 1095-C (Parts I, II and III)</td>
</tr>
<tr>
<td>Either B-Series or C-Series Forms for non-employees</td>
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</tr>
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</table>
Section 6055 – Provider Reporting

• All Employers offering fully insured plans:
  • No filing requirement—carriers will provide/file
  • 1095-B is provided to participants (and sent to IRS)
  • 1094-B is the transmittal form sent to the IRS

• Small Employers (<50 FTE) sponsoring self-insured plans:
  • Report using 1094-B and 1095-B for covered employees

• Large Employers (≥50 FTE) sponsoring self-insured plans:
  • Report using 1094-C and 1095-C for covered employees
  • Will also use C-Series forms to complete Section 6056 reporting
  • May use B-Series forms to report covered non-employees
    • COBRA participants & retirees in the year following termination
Section 6055 – Provider Reporting

• Provider reporting not required for HSAs, on-site medical clinics, wellness programs, dental/vision, or HRAs that only cover employees who are enrolled in the employer’s fully insured major medical plan

• Final 2015 forms and instructions
  • Form 1094-B (transmittal to IRS): [link](www.irs.gov/pub/irs-pdf/f1094b.pdf)
  • Instructions: [link](www.irs.gov/pub/irs-pdf/i109495b.pdf)
Section 6055 – Reporting for HRAs

- Final Form 1095-B instructions for 2015 relax HRA reporting
  - No reporting for HRA coverage is required when an employee is covered under the HRA in connection with coverage under that employer’s fully insured major medical plan
  - However, if an employer offers HRAs to employees who are enrolled in their spouse’s plan, the employer must report on employees covered under their HRA
Section 6056 – Employer Reporting

• Always requires the C-Series forms be completed for employees
• Final 2015 forms and instructions
Form 1094-C Detail

Each entity with its own EIN will have 1 and only 1 "authoritative" 1094-C

A. "Qualifying Offer"—Highly affordable offer (FPL safe harbor) to FT employees
B. Qualifying Offer made to at least 95% of FT employees in one or more months
C. 50-99 Transition Relief (Code A in column (e) of 1094-C) or 100+ Transition Relief (Code B)
D. For all months of the year, employer offered affordable, MV coverage to at least 98% of employees for whom it is filing a Form 1095-C
When to Check Box C in Line 22

- Box C is checked when an employer qualifies for transition relief from penalties under the employer mandate based on size.
  - Employer that is not relying on transition relief based on size does not need to check box C.
  - An employer with 100+ FTEs on average in 2014 that offered coverage to at least 70% of FT employees in each month of 2015 would not check box C.

- Employers relying on transition relief based on size must insert an “A” or “B” in lines 23-35 of column (e) of form 1094-C.
  - Size determination is made on a controlled group basis.
  - Code A: Employers who had 50-99 FTEs on average in 2014.
    - Relief from pay-or-play penalties in 2015.
  - Code B: Employers who had 100+ FTEs on average in 2014.
    - 30 employee reduction increased to 80 for purposes of the 2,000 penalty.
How to Report Other Transition Relief

• $2,000 Penalty Relief:
  • Employer offered coverage to at least 70% of FT employees
  • Employer does not yet offer dependent coverage
  • Employer has a non-calendar year plan and did not offer to 70% until 2015 PY
  • Enter X in the “Yes” box in column (a) for lines 23-35 of form 1094-C

• $3,000 Penalty Relief for Employers with Non-Calendar Year Plans
  • Employer qualifies for non-calendar plan year transition relief and has offered affordable, minimum value coverage to the employee by the start of the 2015 plan year
  • Enter code 2I in line 16 of form 1095-C until the start of the 2015 plan year
Form 1095-C Detail

**Part II Employee Offer and Coverage**

<table>
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<tr>
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<th>All 12 Months</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
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<td>Applicable Section</td>
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<tr>
<td>4980H Safe Harbor</td>
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</tbody>
</table>

All ALEs complete Parts I & II (Part II shown; Part I is Employer and Employee information)

Self Funded ALEs also Complete Part III

**Part III Covered Individuals**

If Employer provided self-insured coverage, check the box and enter the information for each covered individual

<table>
<thead>
<tr>
<th>(a) Name of covered individual(s)</th>
<th>(b) SSN</th>
<th>(c) DOB (if SSN is not available)</th>
<th>(d) Covered all 12 months</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
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Line 14 Codes for Offers of Coverage

• **1A** – Qualifying Offer (discussed later)
• **1B** – Minimum Essential Coverage providing minimum value to employee only
• **1C** – MEC providing Minimum Value to employee and dependents (not spouse)
• **1D** – MEC providing MV offered to employee and spouse (not dependents)
• **1E** – MEC providing MV offered to employee, spouse and dependents
• **1F** – MEC NOT providing MV offered to employee
• **1G** – Offer to employee who was not a FT employee for any month and who enrolled in self-insured coverage
• **1H** – No offer of coverage
• **1I** – Qualifying Offer Transition Relief 2015: Employee received no offer of coverage, received an offer that is not a qualifying offer, or received a qualifying offer for less than 12 months
Line 15 – Cost of Coverage

• Complete line 15 only if code 1B, 1C, 1D, or 1E is entered on line 14 either in the "All 12 Months" box or in any of the monthly boxes

• Note that this amount may not be the amount the employee is paying for the coverage, for example, if the employee chose to enroll in more expensive coverage such as family coverage
Line 16 Codes to Report Safe Harbors

• **2A** – Employee not employed during the month
• **2B** – Employee not FT employee; not enrolled entire month
  • Use if employee terminated during the month
• **2C** – Employee enrolled in coverage offered
  • Use regardless of whether any other Code applies
  • Except if 2E applies or employee has enrolled in COBRA (use 2A)
• **2D** – Employee in a Limited Non-Assessment Period
• **2E** – Multiemployer interim relief applies to the employee
• **2F** – W-2 Safe Harbor applies for the year
• **2G** – Federal Poverty Level safe harbor applies
• **2H** – Rate of Pay safe harbor applies
• **2I** – Non-calendar year transition relief applies
Section 6056 – Reporting for COBRA

• Final Form 1095-C instructions for 2015 relax COBRA reporting

• COBRA offered due to termination is reported as "no offer" (Code 1H) on Line 14 of Form 1095-C, regardless of whether COBRA is elected
  • 2A is used in line 16 regardless of whether the employee elects COBRA
  • 2B in the month of termination

• COBRA offered due to reduction in hours is reported in the same manner and using the same code as an offer of that type of coverage to any other active employee
Section 6056 – Reporting for Union EEs

- Final Form 1095-C instructions for 2015 relax reporting for employers with collectively bargained employees
  - Employers enter code 1H in line 14 and code 2E in line 16 for any month for which the multiemployer relief applies for that employee, regardless of whether any other code in Series 2 (including code 2C) might also apply
  - Multiemployer relief: An employer is treated as offering coverage to an employee if the employer is required by a CBA to contribute for that employee to a multiemployer plan that offers, to individuals who satisfy the plan’s eligibility conditions, health coverage that is affordable and provides minimum value, and that also offers health coverage to those individuals’ dependents (or is eligible for transition relief regarding offers of coverage to dependents)
Simplified Reporting: Qualifying Offer

• A Qualifying Offer (QO) is an offer of minimum value coverage to the employee that costs no more than 9.5% (as indexed) of the federal poverty level
  • Employee-only cost cannot exceed $1,124 for 2015 (~$93.66/month)
  • Offer must include offer of MEC to spouse and children
  • Employer must make a QO to at least one FT employee in order to check box A in line 22 of Form 1094-C

• Employer reporting for employees who receive a QO for the entire calendar year is "simplified"

• Employers making a QO will only need to report names, addresses, and tax IDs for employees who receive a QO for the entire year
  • Indicator Code 1A used in line 14 on 1095-C to report a QO
  • Lines 15 and 16 are blank
Simplified Reporting: Qualifying Offer

• Qualifying Offer Transition Relief for 2015
  • Available if employer made a Qualifying Offer to at least 95% of full-time employees in one or more months of 2015
  • Employer may use Code 1I in line 14 of 1095-C for months in which the employee did not receive a Qualifying Offer
  • If Qualifying Offer not made for all 12 months and Qualifying Offer Transition Relief for 2015 does not apply, full reporting required for any month in which Qualifying Offer was not made
  • Employees with Qualifying Offers either receive Form 1095-C or may be provided an "alternative statement" informing them that the family is ineligible for a premium credit that year
Alternative Statement to 1095-C

- If an employee (A) is not covered under a self-insured plan, and (B) receives a Qualifying Offer for the entire calendar year, the employer may provide an "alternative statement" in lieu of Form 1095-C
- Limited usefulness, as employer must still provide 1095-C to IRS
- An employer may report that it made a Qualifying Offer to an employee in certain months, even if the employee did not receive one for the entire year; however, use of the alternative statement is not permissible unless the Qualifying Offer was made for the entire calendar year
Alternative Statement – Content

• Employer name, address, and EIN
• Contact name and telephone number at which the employee may receive information about the offer of coverage and the information on the Form 1095-C filed with the IRS for that employee
• A statement indicating that, for all 12 months of the calendar year, the employee and his or her spouse and dependents, if any, received a Qualifying Offer and therefore are not eligible for a premium tax credit
• A statement directing the employee to see Pub. 974, Premium Tax Credit (PTC), for more information on eligibility for the premium tax credit
Alternative Statement – Transition Relief

• For 2015, employers making a qualifying offer to 95% of their FT employees for one or more months may use the alternative statement method for all employees, even those who did not receive a qualifying offer for the entire year

• Statement must:
  • Include employer name, address, and EIN;
  • Include contact name and telephone number at which the employee may receive information about the offer of coverage (if any) and the information on the Form 1095-C filed with the IRS for that employee;
  • Indicate that an employee who did not receive a Qualifying Offer (or received no offer) may be entitled to the premium tax credit for one or more months of 2015; and
  • Direct the employee to see Pub. 974 for more information on eligibility for the premium tax credit
Simplified Reporting: 98% Offer

- "Option to Report without Separate Certification of FT Employees"
- Employers that offer affordable, minimum value coverage to at least 98% of employees (and dependents) included on the report may certify the offering without identifying which employees are full time
- All the 98% Method does is allow the employer to report on an employee without identifying FT/PT status
Simplified Reporting: 98% Offer

• When might the 98% Method be useful?
• When an employer with a self-insured plan offers coverage to FT and PT employees and does not want to have to identify FT/PT status when reporting covered employees on 1095-C
  • Employers using this method are not required to complete the FT employee count in Part III, column (b) of Form 1094-C
Penalty Relief

• Penalty Relief for 2015
• Employers that show a good faith effort in complying with the information reporting requirements under section 6056 will not be liable for any accuracy related penalties
• The reasonable cause standards do apply under normal rules for those that fail to meet the timely reporting requirements
• Standard penalties for reporting failures can be $250 per return, up to $3M per year
  • $500 per return with no cap for willful failures
Common Questions
Common Questions

• How do I report for all members of the controlled group?
  • **You don’t.** Reporting is performed on a per-EIN basis
  • Each entity completes its own Authoritative 1094-C
  • Provides a summary to the IRS of aggregate employer-level data

• What line 16 code (Form 1095-C) should I use for an employee who declines to enroll?
  • There’s no code for an employee who declines the employer’s plan – leave the entry blank or use any other code that applies (e.g., 2F, 2G or 2H if one of the affordability safe harbors apply)
Common Questions

• Do we report on every employee who worked 130 hours in one or more months of 2015?
  • Employees in a limited non-assessment period (LNAP) are not full-time employees
    • LNAPs include waiting periods and initial measurement periods
    • Employees who terminates during an LNAP will not receive a Form 1095-C

• What about spousal carve outs?
  • Plans that exclude spouses who have access to other employer coverage have still made an offer of spousal coverage for reporting purposes
  • For 2016 and beyond, two additional codes may apply, which will indicate that the employer’s offer to the spouse is a conditional offer
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