

# bailey benefit *news*

This update is sent periodically to keep you informed of employee benefit plan issues that may impact your organization.



**April 15, 2014**

The government recently released final regulations regarding the reporting requirements that begin January 1, 2015 for all employers with 50 or more full-time employees, including full-time equivalents.

The single form has two parts that comprise the reporting requirements. The top half - Section 6056 – which is reported by the employer, is designed to aid the IRS in its enforcement of the employer play-or-pay mandate as well as help the IRS administer the individual premium-assistance tax credit. The bottom half - Section 6055 - which is reported by either the insurance company or *any* size employer that sponsors a self-funded health plan, is designed to aid the IRS in its enforcement of the ACA's individual coverage mandate.

## **REPORTING REQUIREMENTS UNDER CODE SECTION 6056**

### **Standard Section 6056 Reporting Method**

The final Section 6056 regulations require a large employer to report the following information:

- the name, address, and employer identification number of the employer, and the calendar year for which the information is being reported;
- the name and telephone number of the employer's contact person;
- a certification as to whether the employer offered its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage, by calendar month;

- the number of full-time employees during the calendar year, by calendar month;
- for each full-time employee, the months during the calendar year for which minimum essential coverage was available;
- for each full-time employee, the employee's share of the lowest-cost monthly premium for self-only coverage providing minimum value that was offered to that employee, by calendar month; and
- the name, address, and Social Security number of each full-time employee (not dependents) during the calendar year and the months, if any, during which the employee was covered under an employer-sponsored plan.

This information is to be reported to employees on a new Form 1095-C, and then transmitted to the IRS on a Form 1094-C. Self-funded, multiemployer plans will report on Form 1095-C.

For health coverage provided during calendar-year 2015 (regardless of plan year), a large employer must file this information with the IRS by either (a) February 28 for paper filings (since the date falls on a Sunday in 2016, the date is March 1), or (b) March 31 for electronic filings. If the employer will file 250 or more returns under Section 6056, it must file them electronically.

Employers must furnish individual statements to employees by January 31 (since the date falls on a Sunday in 2016, the date is extended to February 1). Employers may furnish these employee statements electronically (the requirements are similar to those in place for the electronic furnishing of the W-2 Forms).

### **Alternative Simplified Section 6056 Reporting Methods**

The final regulations include two alternative methods by which a large employer (50+) may satisfy its Section 6056 reporting obligation. These alternative methods are designed to minimize the costs and administrative burdens for employers by not requiring monthly, employee-specific reporting.

1. **Reporting Based on Certification of a "Qualifying Offer"**. To use this method, an employer must certify that it made a "qualifying offer" of health coverage to a full-time employee for all months during the year in which the employee was considered full-time. A "qualifying offer" is an offer of health coverage to the employee that meets the following requirements:
  - 60% minimum-value coverage;
  - Premium for self-only coverage at no more than 9.5% of the federal poverty level (currently \$92.39/month);
  - An offer of minimum essential coverage to the employee's spouse and dependents.

For any employee who receives a “qualifying offer” for all 12 months of the year, employers need only report the employee’s name, address, and Social Security number, along with the proper indicator code. If an employee received a “qualifying offer” for *fewer* than 12 months, an employer may use this alternative method to report for the months during which a qualifying offer was received, but will need to use the standard reporting method (outlined previously) for all other months.

*Transition Relief for 2015.* Under this transitional relief, if an employer certifies that it made a qualifying offer to at least 95% of its full-time employees (plus the corresponding offer to each such employee’s spouse and dependents), the employer may use the “qualifying offer” alternative method for its *entire* workforce, including any employees who did not receive a qualifying offer for all 12 months of the year. This transitional relief is for 2015 only.

- 2. Reporting Without Separate Identification of Full-Time Employees.** The second alternative method is for employers that are able to certify that they offered affordable, minimum value health coverage to at least 98% of their full-time employees. Under this alternative method, employers do not need to identify which of their employees are full-time.

## **REPORTING REQUIREMENTS UNDER CODE SECTION 6055**

Code Section 6055 requires information reporting by any entity that provides minimum essential coverage to an individual during a calendar year. This includes sponsors of self-funded health plans, regardless of “large employer” status. The information reported under Section 6055 may be used by both individuals *and* the IRS to verify the months (if any) during which the individuals had minimum essential coverage.

Under Section 6055, insurers and self-funded employers must report both employee *and* dependent Social Security numbers. If the dependent’s Social Security number cannot be obtained after reasonable efforts, they may provide the dependent’s date of birth. Due to this requirement, employers who sponsor self-funded health plans will need to implement a process for obtaining dependent Social Security numbers.

## **COMBINED REPORTING UNDER CODE SECTIONS 6056 and 6055**

The final regulations also allow employers that sponsor self-funded health plans to *combine* their reporting under Sections 6056 and 6055 onto a single Form 1094-C. Employers with *insured* plans will use the same Form 1094-C, but they will complete only the Section 6056 portion. The insurer will then report the Section 6055 information on a separate form.

## **Reporting under Multiemployer Plans**

The plan administrator of a multiemployer plan may prepare the returns under Section 6056 that pertain to the full-time employees who are covered by an applicable collective bargaining agreement and who are eligible to participate in the multiemployer plan. The contributing employer would then prepare the returns pertaining to its remaining full-time employees (*i.e.*, those who are not eligible to participate in the multiemployer plan).

Under this approach, the administrator of the multiemployer plan would file a separate Section 6056 return for each contributing employer – who is also a large employer – by providing the name, address, and identification number for both the plan and the employer on behalf of whom it files. In addition, the multiemployer plan may assist the employer in furnishing the required statements to its employees.

The contributing employer would remain the responsible person under Section 6056 with respect to *all* of its full-time employees. Accordingly, it would be subject to any potential liability for failure to properly file returns or furnish statements. To the extent the plan administrator prepares returns or statements required under Section 6056, it will be a “tax return preparer,” subject to the requirements generally applicable to return preparers. The final regulations note that further details will be provided in forms and instructions to assist multiemployer plan administrators in Section 6056 reporting on behalf of their contributing employers.

As for Section 6055, the plan sponsor, typically a joint board of trustees, acting through a plan administrator, *must* provide the Section 6055 information for all employees participating in the plan, regardless of whether the participant is employed by a large employer.

## **PENALTIES FOR FAILURE TO COMPLY**

An employer or other reporting entity that fails to comply may be subject to the general reporting penalties. The IRS will grant temporary relief from these penalties for returns and statements filed and furnished in 2016 with respect to offers of coverage made in 2015, but only for incorrect or incomplete information reported on the return or statement – including Social Security numbers or dates of birth. The IRS will *not* grant relief to employers who do not make a good-faith effort to comply with the regulations, or who do not even file an information return or statement. Therefore, employers should begin preparing *now* to comply with these new information reporting obligations by working with your payroll company or department.

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513-579-9800  
[www.baileyandco.com](http://www.baileyandco.com)