

Health Care Reform

Connecting the Dots

Affordable Care Act Update



May 19, 2015

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Session Objectives

- Identify key definitions impacting employer implementation of the Affordable Care Act
- Understand the regulatory requirements of the Affordable Care Act and how they impact health coverage for employers
- Understand the new reporting requirements under the Affordable Care Act and how they impact employers

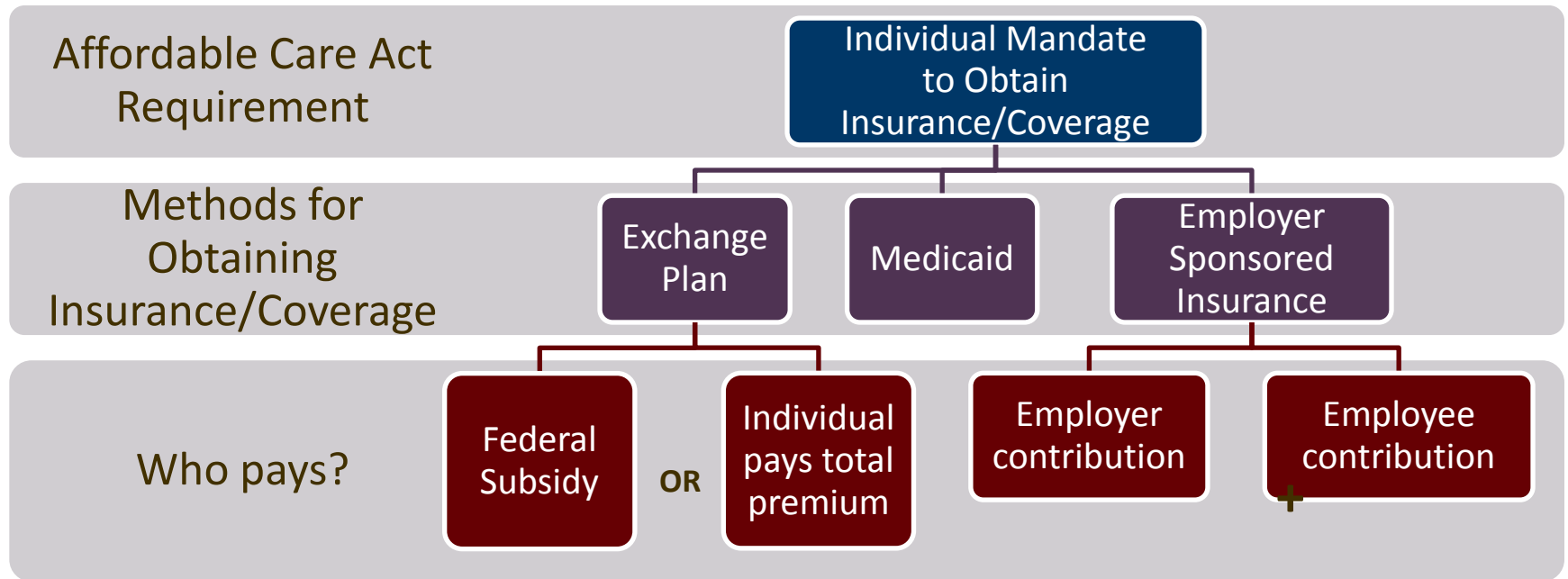
The Affordable Care Act



The Affordable Care Act... Four Years Later

- Signed into law March 2010
- Applies to all businesses in the US, including governments and churches
- Requires almost all individuals to obtain health insurance coverage or pay a penalty
- First open enrollment in the health insurance exchanges (state or federal) complete
- Large employer penalties for failure to offer FT employees affordable, minimum level health insurance delayed until at least **1/1/2015, for some mid-sized employers until 1/1/2016**
- Implementation details continue to be outlined through the issuance of new regulations, guidance, and FAQ documents from IRS, HHS, DOL

Health Care Coverage Under the ACA



Key Questions

- Who does the employer shared responsibility penalty apply to?
- When does the employer shared responsibility penalty apply?
- Who are full-time employees and equivalents?
- When does an employer have to offer coverage to full-time employees?
- Does the coverage meet the mandates and affordability requirements?

Defining Key Terms



Key Health Reform Definitions

- **ACA** - refers to the 2010 Patient Protection and Affordable Care Act also known as health reform or Obamacare. For practical purposes, it also encompasses the Health Care and Education Reconciliation Act of 2010 and corresponding amendments.
- **Applicable Large Employer** - an employer who employed an average of at least 50 full-time employees plus full-time equivalents on business days during the preceding calendar year.
 - **Aggregation rule applies:** The 50 + employees is determined by control group or affiliated service group

Key Health Reform Definitions (cont.)

- **Full-Time Employee** – Working an average of 30+ hours of service per week or 130 hours per month, annually. “Hours of service” includes all hours worked, vacation, sick, deployment leaves, family medical leave, etc. (Foreign hours worked not included)
 - There are two methods for determining full-time status
 1. Monthly Measurement
 2. Look-back Measurement
 - IRS final rules provide clarification for how to determine hours for workers with unique situations such as those in: educational institutions, on-call, seasonal workers, volunteers, airline workers and certain home health workers.

Key Health Reform Definitions (cont.)

- **Full-Time Equivalent**

- **For determining large employer status for shared responsibility requirements:** Hours worked in a month by all part-time employees divided by 120.
 - ◇ When considered on annual basis this is 1440 hours

Key Health Reform Definitions (cont.)

- **Health Insurance Exchange (“Exchange”)** – an ACA exchange is an insurance marketplace where individuals, or certain small business employees, can purchase insurance as part of a large risk pool.
 - Each state was required to establish its own exchange or utilize the federal exchange.
 - Four metal-level plan levels are offered plus a catastrophic option for certain individuals.

Key Health Reform Definitions (cont.)

- **Exchange Subsidy** – Individuals who meet the income and health insurance affordability criteria will be eligible for sliding-fee premium and/or cost sharing (e.g. deductibles, co-payments) subsidies in the **Exchange**.
 - Must be ineligible for affordable, minimum essential coverage via employer.
- **Affordable Insurance** – Employee premium cost is less than 9.56% of Household Income.
 - Three employer safe harbor options are also provided under regulations (as of 1/1/2013).
 - Test for hardship exemption from individual mandate: Insurance is affordable if cost is less than 8% of household income

Key Health Reform Definitions (cont.)

- **Household Income (HHI)** – An individual's modified adjusted gross income (MAGI), as reported on their annual tax return.
 - MAGI = AGI plus any excludible foreign earned income and tax-exempt interest received during the taxable year.
 - HHI also includes the incomes of all dependents required to file tax returns.
 - HHI will be assessed in relation to FPL to determine eligibility for subsidies.
- **Federal Poverty Level (FPL)** – Government-established income thresholds used to determine eligibility for assistance through various federal programs.

Key Health Reform Definitions (cont.)

Minimum Essential Coverage (MEC)

- **For individuals includes:**
 - Public programs, such as: Medicare Part A, Medicaid, CHIP, TRICARE, certain Veterans Affairs health care programs, Peace Corp health plan.
 - Employer-sponsored health plan that is affordable & provides minimum value
 - Insurance purchased through an Exchange, or the individual market
 - State health benefits risk pools and other health benefits approved by HHS Secretary
 - Grandfathered plans
- **For employer:** a governmental or any other small or large group health plan, including a grandfathered plan

Key Health Reform Definitions (cont.)

“Minimum Value” Plan

- Law requires “large” employer to offer at least one plan with a minimum 60% actuarial value
 - Desired by employees in order to meet individual mandate = New Benefit Floor
 - Premiums for this level plan should be lower than higher actuarial value plans
- **Actuarial Value looks at a variety of components:** deductibles, co-payments, co-insurance, as well as employer contributions to HRAs and HSAs.

60% Actuarial Value means: on average the plan pays for 60% of the costs for covered benefits and enrollees, on average, pay the remaining 40 percent through cost-sharing such as deductibles, copayments and coinsurance.

Key Health Reform Definitions (cont.)

Employer shared responsibility penalty

- **Large** employers have to offer group health coverage to all full-time employees in 2015 that is both affordable and provides minimum value, or be subject to one of two “**shared responsibility**” **penalties** if any full-time employee receives Exchange subsidies:
 - No Insurance Coverage Penalty, or
 - Unaffordable Insurance Coverage Penalty

Key Health Reform Definitions (cont.)

Employer shared responsibility penalty – Defining Large Employer

- **Large employers** = 50 or more full-time employees and full-time equivalents
 - Full-time employee = Avg. 30 or more service hours per week
 - Full-time equivalent = All part-time employee hours worked in a month divide by 120
 - No exceptions for governments and churches
 - Will apply to most educational institutions



Penalty Provision Reminders and Transition Relief

Employer Penalty Implementation Timeline

2015

- All applicable large employers must offer **coverage to at least 70% of its full-time employees** to avoid \$2,000 penalty; \$3,000 penalty may still apply for uncovered
- For employers with 100 or more employees, \$2000 penalty applies **after the first 80 full-time employees** if no insurance offered.
- No penalties for employers with 50-99 employees, who meet certain criteria
- No penalties between January and Plan Year start for certain non-calendar year plans.

2016

- All employers with 50 or more employees must offer coverage to at least 95% of full-time employees to avoid penalties
- \$2000 no insurance penalty is assessed after first 30 FT employees (no longer 80)
- SHOP open to all employers with fewer than 100 employees
- Information Return for 2015 to be filed with IRS

2017

- SHOP Coverage open to all small and large employers

Employer “Shared Responsibility” Penalties

Penalty only assessed if a FT employee receives Exchange subsidies.
Employees ineligible for subsidies if employer coverage affordable

No Insurance Coverage Penalty

- Also applies if coverage not offered to **at least 70% (2016 and beyond must be 95%)** of FT employees and their dependent children under age 26.
 - **Plan Year 2015 Amount = \$2000 x each full-time employee**, after first **80** employees for Plan Year 2015
 - **Plan Year 2016 and beyond Amount = \$2000 x each full-time employee**, after first 30 for subsequent years
 - Penalty is based on all employees over the thresh hold if one employee goes to the exchange and receives a credit

Employer “Shared Responsibility” penalties

Unaffordable Employer Coverage Penalty

If employer fails to offer coverage that is:

1. Minimum essential coverage and minimum value offered to employees and their children under age 26.
2. **Affordable**
(see definition in box on right)

Amount = \$3000 x # of FT employees who receive exchange subsidies

3. **Penalty is based on only those employees who go to the exchange and receive a credit**

“**Affordable**” = the employee premium contribution for single coverage is **less than 9.5%** of their household income, or one of three employer safe harbor options exist. (e.g., W-2 wages)

Employer “Shared Responsibility” Penalties (cont.)

- **Maximum Employer penalty** = no insurance penalty
- **Inflationary adjustments** to penalties begin in 2015
 - Penalties indexed using national premium trend increases
 - ◇ Not clear if it is individual or family premiums, or individual market or group market trend
 - ◇ Announced by HHS in October of the year preceding the effective date of the increase.
- Employer pays **no penalty for Medicaid** eligible employees

Three Employer Affordability Safe Harbors

- ***W- 2 Safe Harbor:*** Looking back at Box 1 wages in comparison to premium cost for self-only coverage
- ***FPL:*** For 2015, employee cost for self-only coverage can't exceed \$92.97/month.
- ***Rate of Pay:*** Employee's cost for self-only coverage cannot exceed 130 hours x Employee's Pay Rate x 9.56%

2015 Transition Relief:

Applicable Large Employer (ALE) Status Determination

- **Determining ALE Status:** For 2015, employer can determine whether or not it is a large employer by selecting any consecutive six-month period in 2014.
 - In 2015, must use full 12 months for look-back measurement period
 - Seasonal worker exception can only be used if looking at full calendar year
- **First-time ALE's Exempt from Penalties if Coverage Offered by April 1**
 - Failure to offer any coverage by April 1 can result in \$2,000 penalty applying as of January 1.
 - One-time only transition relief even if drop below 50 threshold.

Plan Year 2015 Transition Relief:

No Penalties for Certain Employers With 50 – 99 Employees

Criteria employers must meet:

- **Has 50 – 99 FT employees plus FTEs during 2014.**
- **Made no reduction*** in its workforce hours or size between 2/9/2014 and 12/31/14 to meet the first criteria
- **Previously-offered health coverage is maintained** between 2/9/2014 and the end of Plan Year 2015:
 - Same employees continue to receive employer contribution that is:
 - ◇ At least 95% of the dollar amount as of 2/9/2014; or
 - ◇ The same or higher percentage of the cost as 2/9/2014
 - Any plan changes don't result in a loss of minimum value
 - Eligibility for coverage is not narrowed to cover fewer employees.
- **Certify their eligibility for transition relief**
(as part of required information return)

2015 Transition Relief: *Non-Calendar Year Plans*

- **For employer's that:**
 - Had a non-calendar year plan as of 12/27/2012
 - Did not modify the plan year after 12/27/2012 to begin at a later calendar date
- **No penalty assessed for months between January 2015 and beginning of plan year, if any of these circumstances apply:**
 1. **Offer** all eligible employees (based on 2/9/2014 plan terms) affordable, minimum value coverage by the first day of the 2015 plan year
 2. If **covered** at least 25% of **all** – PT & FT-- employees within the 12 months prior to 2/9/2014 or **offered** coverage to at least 1/3 of employees during the open enrollment period prior to 2/9/2014.
 3. If at least 1/3 of **full-time employees** were covered in 12 months prior to 2/9/2014 or offered coverage to 50% or more of full-time employees during open enrollment period prior to 2/9/2014

Who Counts As Your Employee?

YES

- **Educational employees:** If full-time for school year, then treated as full-time for calendar year.
- **Adjunct faculty:** Until further guidance, employers are to establish a reasonable method for crediting hours of service that is consistent with the ACA.
 - **IRS optional method** = 2.25 hours of service per week for each hour of teaching or classroom time.
- **Paid Student Interns or Externs**
- **Seasonal employees:** Counted in determining liability for employer penalties.

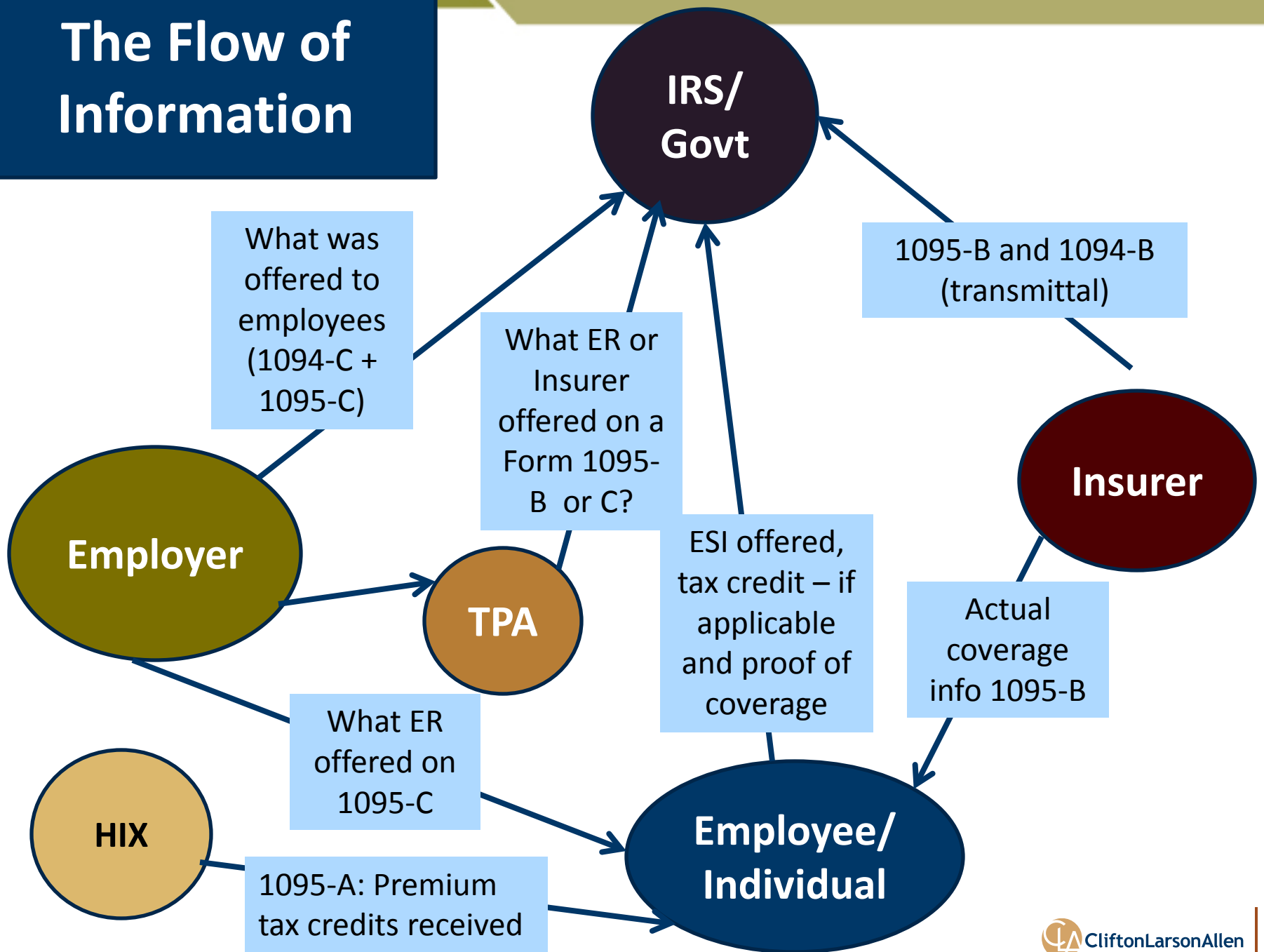
NO

- **Bona Fide Volunteers:** Applies to volunteers of government or tax-exempt entities. Allowed to compensate for reasonable expenses or reasonable benefits.
- **Seasonal worker:** Can exclude from Large Employer determination if they work **120 days or less** in preceding calendar years
- **Student work-study programs:** Only for service performed by students under federal or state-sponsored work-study programs
- **Home care workers:** Where service recipient is the common law employer of the worker.



Information Reporting

The Flow of Information



Forms for Reporting – 2015 due in 2016

Form 1095-B & 1094-B

- Filed by insurance companies to report individuals covered by insured employer-sponsored group health plans
- Small employers with self-insured plans will use these forms to report individuals and family members covered by the self-insured plan

Form 1095-C & 1094-C

- Filed by ALE's
- Small employers (< 50 FTs and FTEs) will be required to file these if they are members of a controlled or affiliated service group that collectively has at least 50 FTs and FTEs

Use

- IRS will use to determine shared responsibility penalties for employees and employers
- IRS will also determine eligibility for premium tax credits

Purpose of Employer Reporting

- Determine which full-time employees, if any, were **offered** coverage
 - Reconciled with individual reporting to confirm eligibility for Exchange subsidies.
- Confirm that coverage offered was at least 60% actuarial value
- Confirm that coverage was affordable for employee
- If these tests aren't met, determine employer penalty.

ALE's: Reporting for 2015 calendar year

Large Employers required to annually submit an:

1. Information return to the IRS **by either March 1, 2016 (typically, Feb. 28) or March 31, if filing electronically**
2. **Information to employees on or by January 31 (Feb. 1, 2016)**
 - Can be provided electronically like W-2s

Forms: 1094-C (transmittal) and 1095-C (employee statement)

- Applies to employers with 50 or more FT + FTE employees
- No filing required if employer has no full-time employees

**Sec. 6056
Reporting**

Employer: How to Report

- **Electronic return filing**

- **Reporting to IRS**

- Electronic filing required if submitting 250 or more 1095-C's.
 - Optional electronic filing for employers with fewer returns.

- **Electronic furnishing of employee statement** is permitted if notice, consent, and hardware and software requirements modeled on existing rules for Form W-2 are met.

- Requires employee consent to furnish electronically
 - May include these statements with other statements (e.g., W-2)

Employer: How to Report

- If an employer is a member of an aggregated group, each individual employer within the group is responsible for its own reporting for its full-time employees
- Information return is basis for IRS to calculate the an applicable employer penalties

Employer General Reporting to IRS

• Required elements

- Employer information and main contact
- Certification that minimum essential coverage was offered to FT employees by calendar month
- # of FT employees for each calendar month of calendar year
- By FT employee, months that coverage was available
- Employee share of cost for lowest cost plan
- Employee information and months covered by the plan

• Not required

- Waiting period length
- Employer's share of premium cost
- Premium for lowest cost plan by coverage type (e.g., employee only, family)
- Months that employee's dependents were covered by the plan

Employer: General Reporting Method

- **Must file information returns using EIN**
- **Purpose of reporting is:**
 - 1) Reconciling eligibility for premium tax credits;
 - 2) Determining employer penalty liability.
- **Information to be reported for each FT employee include:**
 - Whether minimum value coverage was offered and to whom
 - The total number of employees in each calendar month
 - Whether an employee's effective date of coverage was affected by a permissible waiting period, by calendar month

Employer: Employee Statement

- Requires separate statement to be issued for each employee similar to W-2s
 - Must include: Employer name, address and EIN
- Single combine form can be used to report Sec. 6055 (employer reporting) and 6056 (minimum essential coverage issuer reporting) information
 - Substitute form that includes the same information is permissible
- Must be furnished to employee on or before January 31 of the year immediately following year for information furnished
 - For 2015 reporting purposes employees, deadline is January 31, 2016

Employer Reporting

- Each ALE is liable for filing its own return when part of an aggregated group.
- Employers may use third parties to facilitate the filing of the reports but remain liable for failure to report.
- Penalties for **Failure to file** (Sec. 6721) or **Failure to furnish correct payee statement** (Sec. 6722) : \$100 /return, maximum of \$1.5 million

Employer-Insurer:

Self-insured Employer Reporting

- **Forms:**
 - Self insured employers will complete Part III of IRS Form 1095-C
 - Stand in the shoes of the insurance company
- **Timeline:**
 - **IRS information returns:** Must submit by February 28 if paper forms; or by March 31 if electronic filing
 - **Individual written statements:** On or before Jan. 31 following the year that MEC was provided.
 - ◇ Can be issued with W-2s to employees

Form **1094-C**

Department of the Treasury
Internal Revenue Service

Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

► Information about Form 1094-C and its separate instructions is at www.irs.gov/1094c.

CORRECTED

120115
OMB No. XXXX-XXXX

2014

Part I Applicable Large Employer Member (ALE Member)

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	

For Official Use Only



17 Reserved

18 Total number of Forms 1095-C submitted with this transmittal

Part II ALE Member Information

19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions

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? Yes No
If "No," do not complete Part IV.

22 Certifications of Eligibility (select all that apply):

A. Qualifying Offer Method B. Qualifying Offer Method Transition Relief C. Section 4980H Transition Relief 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 _____
Title

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 61571A

Form **1094-C** (2014)

DRAFT AS OF
July 24, 2014
DO NOT FILE

Employer-Provided Health Insurance Offer and Coverage

Information about Form 1095-C and its separate instructions is at www.irs.gov/1095c.

VOID
 CORRECTED

OMB No. XXXX-XXXX
2014

Part I Employee

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	

Part II Employee Offer and Coverage

	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)													
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)					April, Dollar								

Part III Covered Individuals

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

(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 Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 60705M

Form **1095-C** (2014)

Cadillac tax – coming in 2018

40% excise tax on high cost health coverage

Need to start addressing this now

- Determine cost of coverage – includes both employer & employee paid portions of coverage
- Exact rules still being developed by the Treasury
- Compare to thresholds in the law (will be adjusted by CPI)
 - **\$10,200 for individual coverage**
 - **\$27,500 for family coverage**

It is likely not a matter of if you will pay this excise tax but when!

Where to Focus Right Now

- **Determine large employer status for 2015 using look-back method in 2014 & document**
- **Determine potential penalties and strategies to reduce**
- **Develop procedures and document tracking/monitoring for reporting in January 2016**
- **Have one person be responsible for insuring Affordable Care Act compliance & documentation**

Questions?





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