



# 2019 Client Administration Manual for Late Filers



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This Administration Manual provides guidance to properly manage ACA Employer Reporting service for the 2019 calendar reporting year.

Besides detailing the requirements necessary to keep you compliant with the Employer Shared Responsibility Mandate, this document will familiarize you with all the tools we offer to help you do so. In the meantime, if you have any questions pertaining to ACA Employer Reporting, call us toll-free at 1-800-422-4661. While not required, the 12-digit MyTASC ID provided in this welcome kit will help get you to the right contact quickly.

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# Welcome

Welcome to (or welcome back to) TASC's ACA Employer Reporting service. This comprehensive program works with you help ensure your peace of mind when addressing the complexities of the Affordable Care Act (ACA) Employer Shared Responsibility Mandate.

**IMPORTANT NOTE:** If you are required to report for the 2019 calendar reporting year, it is imperative that you complete and submit information for that year prior to any late filings in order to insure a timely 2019 filing and avoid penalties.

If this is your first year with TASC ACA Employer Reporting, a TASC On-Board Specialist will call to help you start on the right foot. *Meanwhile, it is vital that you review this Manual prior to that call.* The contents will help you make pertinent ACA determinations so you can move forward with the reporting requirements.

Many determinations mandated by the ACA are detailed and specific to your Plan. Your On-Board Specialist cannot advise you regarding these required determinations. After you review this Manual, and prior to the On-Board call, we recommend that you pose appropriate questions to your benefits advisor, benefits counsel, or broker.

## Commonly Used Acronyms

- ACA – Affordable Care Act.
- ALE – Applicable Large Employer – See “Are you an Applicable Large Employer (ALE)?”
- FTE – Full-time employee – See Addendum A, “ALE Worksheet.”
- MEC – Minimum Essential Coverage – See “Does your Plan offer Minimum Essential Coverage?”
- MV – Minimum Value – See “Does your Plan offer Minimum Value?”

Visit our TASC news site at [www.tasctracker.com](http://www.tasctracker.com) and subscribe to receive news updates via email. Must-know information regarding TASC products is posted regularly.

Welcome to TASC ACA Employer Reporting!

# Introduction

## Penalties for Non-Compliance

### Two 4980H Penalties

Under ACA, substantial penalties can result when an employer fails to offer health coverage to full-time employees (FTE). Two penalties apply. Commonly called the 4980H(a) Penalty and the 4980H(b) Penalty. When addressing both Penalties, they are simply referred to as the 4980H Penalties.

The 4980H(a) Penalty applies if you fail to offer ACA-compliant coverage (called Minimum Essential Coverage, or MEC) to at least 95% of your FTEs and their dependents. Possible annual 4980H(a) Penalty of \$2,500 may be imposed for each FTE beyond the first 30 employees, but only if one or more FTE obtains federally-subsidized coverage through an ACA Exchange.

The 4980H(b) Penalty applies (i) if you offer ACA-compliant coverage to at least 95% of your FTEs and their dependents, thereby satisfying the test for the 4980H(a) Penalty stated above, but (ii) your Plan fails to provide Minimum Value (MV) or is not affordable, and (iii) at least one FTE obtains federally-subsidized coverage through an ACA Exchange. The 4980H(b) Penalty is \$3,750 per subsidized FTE.

In no case will the liability under Section 4980H(b) exceed the maximum potential liability under Section 4980H(a).

The 4980H Penalties are determined per month. Lesser prorated amounts pertain if a Penalty applies for a portion of a year only. The 4980H Penalties are not tax deductible.

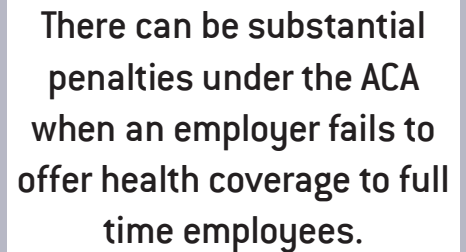
You will be liable for a 4980H Penalty only if one or more full-time employee is certified by the ACA Exchange as having received a premium tax credit or cost-sharing reduction.

### Information for Filing Penalties

For failure to file a required information return, the general penalty for 2019 is \$270 per return, with an annual cap on total penalties of \$3,275,500. If the failure relates to an IRS filing and an Employee Statement, as in the case with ACA Reporting, the penalties are doubled. Special rules apply that increase the per-statement and total penalties if there is intentional disregard of the requirement to file the returns and furnish the required statements.

This Manual provides details on the scope of TASC's services and outlines responsibilities of each party. In this partnership with TASC you are expected to use the tools made available.

TASC is not responsible for any penalties due to activities that occurred, or the failure to act, prior to the start of your ACA Employer Reporting Service Agreement with TASC.



**There can be substantial penalties under the ACA when an employer fails to offer health coverage to full time employees.**

# Introduction

## **Scope of TASC Services**

This Product is written for single employers (including controlled groups) who sponsor a group health plan. It is neither designed nor intended for complex plans such as Multiple Employer Welfare Plans, Voluntary Employee Benefits Associations.

TASC is not a law firm. We do not provide legal or tax advice. All written or verbal communications provided are general in nature and not intended to constitute legal or tax advice.

ACA Employer Reporting may have legal and tax consequences. Any questions regarding Plan Sponsor's particular needs, requirements, circumstances, or the tax consequences of ACA Employer Reporting must be directed to the Plan Sponsor's own advisor(s) at the Plan Sponsor's expense.

This Manual outlines each step and provides the information you need to ensure that your Plan meets the ACA Employer Shared Responsibility Mandate. Follow each step outlined herein to avoid a 4980H Penalty.

# Pre-Filing Determinations

Each year all who use TASC ACA Employer Reporting should carefully review the questions presented in this part of the Manual. Your thoughtful and accurate answers may be critical to avoiding a 4980H Penalty.

TASC provides the right tools to help you answer these important questions and document your reporting status. It is essential that care is taken to complete this Step accurately.

## Gathering Information for Your Filing

Use the following information to help you make (or double-check) the determinations needed for the transmittal form (Form 1094-C). This Section refers you to the parts of this Manual that provide the detail you need to make these determinations.

### 1) ALE Status

See content in “Are you an Applicable Large Employer (ALE)?” and Appendix A, the ALE Worksheet. Contents provide detail and a tool for making this determination.

The terms “insured medical plan” and “self-insured medical plan” are defined as follows:

- a) **Insured Medical Plan** - Your basic group health plan benefits are covered under a group insurance contract or HMO contract with a state licensed insurer or HMO. The insurer or HMO holds the risk for paying claims.
- b) **Self-Insured Medical Plan** - Your basic group health plan benefits are funded by your general assets or by a trust which is self-administered or administered by a third-party administrator. Self-insured health plans are commonly referred to as “self-funded” health plans. The employer holds the risk for paying claims.

**Note:** For cases in which the Plan has some benefits that are insured and others that are self-funded, refer to the portion of the Plan that provides the basic benefits. For example, many employers insure the hospitalization and outpatient services and carve out prescription drug coverage for a self-funded arrangement. That Plan would be insured, and the basic benefits package is insured.

### 2) Minimum Essential Coverage Offer Indicator:

See Section “Does your Plan offer Minimum Essential Coverage?” for details.

**Note: The next two items are technical in nature.** By checking any of the two boxes on the transmittal form, you are certifying compliance with defined ACA terms. If advice is required, we recommend you consult with your benefits advisor, benefits counsel, or broker.

### 3) Qualifying Offer Method

If you check the “Qualifying Offer Method” box on the transmittal form (IRS Form 1094-C) you certify that you made a “Qualifying Offer” to one or more of your FTEs for all months during the calendar year in which the employee was a FTE.



# Pre-Filing Determinations

A “Qualifying Offer” means (a) you offered MEC with MV to at least one FTE; (b) in regards to “Affordability” for the lowest cost self-only coverage, your Plan’s employee contribution is equal to or less than 9.86% of the mainland single federal poverty line, and (c) you offered at least MEC to the FTE’s spouse and dependent(s). (See “Is your Plan Affordable?” content below regarding the Federal Poverty Line Safe Harbor.)

For more detail regarding these items:

MEC – see “Does your Plan offer Minimum Essential Coverage?”

MV – see “Does your Plan offer Minimum Value?”

“Affordability” – see “Is your Plan Affordable?”

## 4) 98% Offer Method

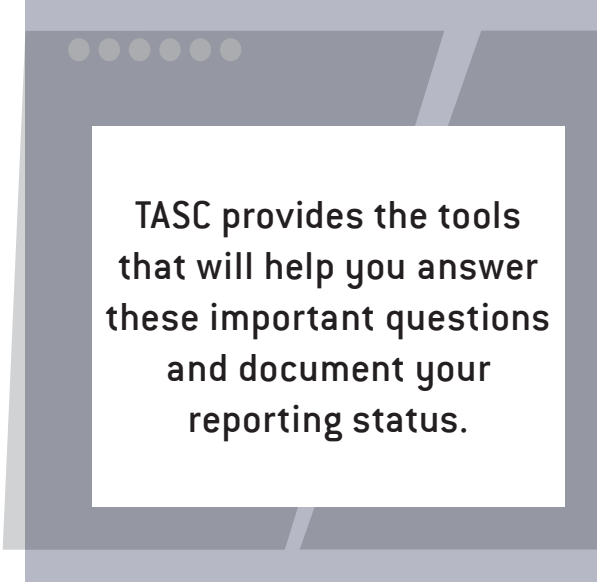
If you check the “98% Offer Method” box on the transmittal form (IRS Form 1094-C), you certify that you offered, for all months of the calendar year, affordable health coverage providing MV to at least 98% of your FTEs, and offered MEC to those employees’ dependents. For this purpose, the health coverage is affordable if the employer meets one of the Section 4980H Affordability Safe Harbors, see “Is Your Plan Affordable?” content below.

## Are you an Applicable Large Employer (ALE)?

Determine the size of your workforce, using the ACA rules for counting employees. This calculation will dictate when your reporting requirement begins.

The general rule: to be subject to the ACA Employer Shared Responsibility provisions for a calendar year, an employer must have employed during the previous calendar year at least 50 FTEs or a combination of full-time and part-time employees that equals at least 50.

Appendix A provides an easy to use Worksheet to determine your status. If you are on the cusp you will want to update this Worksheet for each calendar year so that you can monitor your status and reporting requirements.




**TASC provides the tools  
that will help you answer  
these important questions  
and document your  
reporting status.**

# Minimum Essential Coverage

## Does Your Plan Offer Minimum Essential Coverage (MEC)?

Minimum Essential Coverage (MEC) is defined as accident and health coverage offered under an employer-sponsored group health plan. MEC does not include the following: excepted benefits (most health FSA plans are excepted), fixed indemnity coverage, life insurance, or dental or vision coverage.

**Compliance Note:** The ACA includes benefits and administrative mandates for all insured and self-funded health plans, referred to as either the Public Health Service Act Mandates (PHSA Mandates) or ACA Market Reforms. The PHSA Mandates include items such as but not limited to providing “essential health benefits” (a list of basic benefits described under the ACA), dependent coverage to age 26, prohibitions on life time maximums and preexisting condition limitations, and coverage for preventive benefits. Your Plan’s compliance with the PHSA Mandates is not a part of this product. Your insurance carrier or third-party administrator will be able to certify that your Plan meets these requirements. The penalty for failing to satisfy the PHSA Mandates is a \$100/day excise tax per applicable employee (which is \$36,500 per year, per employee) under Section 4980D of the Internal Revenue Code.



**Minimum Essential Coverage (MEC) is defined as accident and health coverage offered under an employer-sponsored group health plan.**



# Minimum Value

## Does Your Plan Offer Minimum Value (MV)?

**Note:** Your insurance carrier or your self-funded plan third-party administrator may have completed the Minimum Value (MV) calculations for your Group Health Plan.

An employer-sponsored plan is considered to provide MV if it covers at least 60% of the total allowed cost of benefits that are expected to be incurred under the Group Health Plan. The benefits must include substantial coverage of inpatient hospital services and physician services. There are three different routes you can take to determine MV.

- 1) Use the online MV Calculator to enter information about your Plan's benefits, coverage, and cost-sharing components to determine whether the Plan provides MV.

Access the MV Calculator by visiting [HERE](#).

The MV Calculator requires you to enter your Plan options, such as whether your Plan has separate cost sharing limits for prescription drugs. As you progress and select these parameters the applicable part of the form will appear unshaded. Do not complete the shaded areas. It takes a few minutes to review the form, become familiar with its structure, and complete.

- 2) Obtain an actuarial certification. This is typically used when your Plan is self-funded and/or has unique features. The certification must be signed by a member of the American Academy of Actuaries.
- 3) Use the Design-Based Safe Harbor Checklists. The IRS provides multiple safe harbor checklists that you can compare against your Plan. If your Plan is at least as generous as the safe harbor checklists, then the Plan is considered to have MV. This approach allows you to determine MV without using the MV calculator or actuarial certification option. Appendix B contains the current Safe Harbor Checklist(s) and instructions.

A plan does not provide MV if it excludes substantial coverage for in-patient hospitalization services or physician services (or both). This includes plans referred to as "skinny plans" that fail to meet the essential benefits definition in the ACA, and includes tax advantaged account plans such as HRAs or health FSAs, whether considered an excepted benefit or not.

# Plan Affordability

## Is Your Plan Affordable?

For 2019, if your lowest cost employee-only option is 9.86% or less of your FTE's household income then the coverage is deemed affordable. Because you don't know your employee's total household income, you should use information that is available to you to determine whether you offered affordable coverage under a safe harbor. These safe harbors are available only if your Plan satisfies the MEC and MV tests above.

The preferred method is also the easiest: the Rate of Pay Safe Harbor. This safe harbor provides the sole method for satisfying affordability without analyzing each employee's wages and hours. In addition, you need not wait for an employee's W-2 Form after the end of the calendar year to make the determination.

Under the Rate of Pay Safe Harbor, the employer assumes a rate of 130 hours per month and multiplies 130 by an hourly employee's rate of pay, regardless of whether an employee worked more or less than 130 hours during any calendar month.

For example, if the lowest paid hourly FTE earns \$10 per hour on the first day of the plan year, then the employer may require an employee contribution of \$128.18 for the lowest cost employee-only option. This is 9.86% X (\$10 multiplied by 130 hours). The chart below provides some insight into this relationship.

Hint: When determining the rate of pay for the contribution calculation, employers may use the rate of pay required by the local minimum wage law in effect or the federal poverty line.

An offer of coverage to salaried employees uses the salaried employee's monthly salary (instead of 130 multiplied by the hourly rate of pay). An ALE may consistently use any reasonable method for converting payroll periods to monthly salary.

Note: The Rate of Pay Safe Harbor cannot be used for tipped employees or for employees who are compensated solely on the basis of commissions. Instead, employers use the two other affordability safe harbors—Form W-2 wages and federal poverty line—to determine affordability for employees whose compensation is not based on a rate of pay.

The W-2 Safe Harbor allows the employer to use the W-2 wages reported in lieu of attempting to collect the total household income for a family. The W-2 wages (as reported in box 1) are divided by 12 and multiplied by 9.86% to calculate the allowed employee contribution. You must wait until the Form W-2 is available after calendar year end to make the determination of affordability, creating a risk for the outcome. If the Rate of Pay Safe Harbor is not available, using the Federal Poverty Line Safe Harbor is recommended.

The Federal Poverty Line Safe Harbor allows the employer to use the federal poverty amount for a single individual for the applicable calendar year, divided by 12.

<u>Lowest Hourly Rate of Pay</u>	<u>Lowest Monthly Cost of Employee-Only Coverage</u>
\$10.00	\$128.18
\$12.00	\$153.82
\$14.00	\$179.45
\$16.00	\$205.09
\$18.00	\$230.72
\$20.00	\$256.36
\$22.00	\$282.00
\$24.00	\$307.63
\$26.00	\$333.27
\$28.00	\$358.90
\$30.00	\$384.54

# Plan Affordability

For example, for 2019 the annual single person federal poverty level is \$12,140, or \$1011.67 per month ( $\$12,140/12$ ), and the lowest cost self-only coverage is \$99.75 per month. (9.86% of  $\$12,140/12$ ).

The Employee Contribution. The Employee Contribution for the your lowest cost employee-only option can be affected by the following items.

1. The amount of a Cafeteria Plan Employer contributions, sometimes called Flex Credits, is allowed to lower the Employee Contribution total for ACA affordability only if the amount constitutes a “health flex contribution.” Further, a health flex contribution can be applied only to the premium for the employer-sponsored group health plan or medical expenses under the health FSA. A health flex contribution cannot be cashed out at the time of enrollment (arrangements where the employee can either use the FLEX Credits for benefits or they will be added to the Employee’s taxable income are not allowed for health flex contributions).
2. HRA Funding newly made available can lower the Employee Contribution for ACA affordability only if the benefits under the HRA are limited to the employee’s share for services covered under the employer-sponsored group health plan coverage.
3. McNamara-O’Hara Service Contract Act (“SCA”), the Davis-Bacon Act, (“DBRA”) contributions will reduce Employee Contribution for affordability until additional guidance from the IRS is provided. See your Benefit Advisor for details.
4. Post tax employer contributions can increase the Employee Contribution by adding the loss of these funds towards the Employee Contribution as an additional cost.

# Dependent Coverage

## **Does Your Plan Offer Coverage to Your FTEs' Dependents?**

Under the ACA you must offer coverage to your FTE's dependents, defined as the FTE's natural or adopted son or daughter who has not attained age 26. The definition excludes a stepson, stepdaughter, eligible foster child, and an individual who is not a United States citizen or national, unless such individual is a resident of the U.S. or a country contiguous to the U.S. A child attains age 26 on his/her 26th birthday, and is deemed a dependent for purposes of Section 4980H for the entire calendar month in which he or she attains age 26. Absent knowledge to the contrary, an ALE may rely on an employee's representation about his/her children and their ages.

The term dependent does not include the spouse of an employee.

# New ALEs

## Are you a New ALE?

A new employer can determine ALE status during its first Plan Year based on the employer's reasonable expectations at the time the business comes into existence. This expectation should be documented based on commercially acceptable standards for the business, such as including a factor to service a projected sales quota for the year. If subsequent events cause the actual number to exceed that reasonable expectation, the employer is not considered an ALE for the initial calendar year.

An employer not in existence on any one business day in the prior calendar year is deemed an ALE for the current calendar year if (a) the employer is reasonably expected to employ an average of at least 50 FTEs (taking into account equivalent FTEs) on business days during the current calendar year and (b) the employer employs an average of at least 50 FTEs (taking into account equivalent FTEs) on business days during the calendar year. (See Appendix A for equivalent FTE definition and ACA FTE counting rules.)

**Transition Relief for new ALEs, 4980H(a) Penalty Relief.** If a new ALE offers MEC that meets MV and is affordable on or before April 1 of the first calendar year for which the employer is an ALE, the employer will not be subject to 4980H Penalties for any employee not previously offered coverage.

Employers who do not offer coverage to FTEs by April 1 may be subject to a Section 4980H(a) Penalty for months January through March, in addition to any later calendar month in which coverage was not offered. If by April 1 the employer offers employees coverage that does not provide MV or is not affordable, the employer may be subject to a 4980H(b) Penalty per affected employee for months January through March of the first calendar year, in addition to any later calendar month in which coverage does not provide MV or is not affordable.

This rule applies solely during the first year that an employer is an ALE, and does not apply if, for example, the employer falls below the 50 FTE (plus equivalent FTEs) threshold for a subsequent calendar year and then increases employment and becomes an ALE again.

## Introduction

The ACA has two reporting requirements related to the Employer Shared Responsibility Rules, commonly referred to as 6055 Reporting and 6056 Reporting, and both referring to actual code sections of the ACA.

**6055 Reporting:** Section 6055 imposes reporting requirements on anyone who provides another person MEC. It requires reports to your employees to document their coverage, or lack of coverage, so that they can complete their individual tax returns. Similar to Form W-2 reporting, this is often referred to as the “Individual Mandate.”

**6056 Reporting:** Section 6056 requires an ALE to report to the IRS. The IRS then determines whether the employer owes a 4980H Penalty and verifies employee coverage status. This is often referred to as the “Employer Mandate.”

## Do you Need to Report?

All employer-sponsored group health plan coverage (insured and self-funded) must be reported annually to the IRS, and must be reported annually to each FTE for any month of a calendar year. These general rules apply regardless of the employer’s size.

The filing requirements, what forms are used, and who completes the forms, depends on whether you are an ALE or a small employer. (See Appendix A, the ALE Worksheet to make that determination.) In addition, reporting requirements for employers with insured plans differ from those imposed on employers with “self-insured” plans. (In insured plans, basic group health plan benefits are covered under a group insurance contract or HMO contract with a state licensed insurer or HMO. In self-insured plans, benefits are paid from the employer’s general assets or a trust and self-administered or administered by a third-party administrator (also commonly referred to as “self-funded”))

A new employer with no FTEs in any month of the prior calendar year (no employee averaged at least 30 hours of service per week in any month) is not required to report. For example, an employer without at least one FTE in any month in 2019 is not required to report in 2020 for calendar year 2019.

**Multiple Coverage Rule:** If an employee is covered by more than one type of MEC provided by the same employer, the employer is required to report only one of the types of coverage.

Example: an employee is covered by a self-insured or insured major medical plan and a health reimbursement arrangement (HRA) provided by the same employer, the employer is required to report the coverage of the individual under one of the arrangements only.

NOTE: If an individual is covered by an HRA sponsored by one employer and a non-HRA group health plan sponsored by another employer (such as spousal coverage), each employer must report the coverage the employer provides.

# IRS Reporting

## What Must You File?

The following forms are required for filing:

- **IRS Form 1094-C:** Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
- **IRS Form 1095-C:** Employer-Provided Health Insurance Offer and Coverage

If you have less than 250 reportable individuals, TASC has made available to you a file format on the [ACA Employer Reporting 2019 Late Filers Resources Page](#) that you can populate with the information needed for TASC to generate an IRS Form 1095-C for each applicable individual. (Please note there is a file format for fully-insured health plans and self-insured health plans.) TASC will provide you with a file of all IRS Form 1095-Cs for filing with the IRS by US Mail as well as a file of all IRS Form 1095-Cs for distribution to employees. This second set for distribution to employees will have the Social Security Numbers truncated. The IRS Form 1094-C will need to be completed by you and included with the IRS Form 1095-Cs mailed to the IRS.

## When do You Need to File?

If you must also file as an ALE for 2020 it is imperative that you gather and submit the required information to TASC as soon as possible and prior to December 15 in order to insure a timely filing of 2020 ACA information. This will insure that you avoid any late filing penalties for the 2020 reporting year. Please gather and submit your 2020 ACA year-to-date information prior to working on your 2019 filing.

## What Information Will You Need?

In the “Pre-filing Determinations” section you gathered the basic plan information required for the IRS filing. You will need this basic plan information in order to complete the transmittal form (IRS Form 1094-C) which will accompany the 1095-C paper forms you mail to the IRS (if you have less than 250 reportable individuals).

## Filing the Returns

The IRS Filing(s) for Employers with less than 250 reportable individuals: You will need to gather the information for each reportable individual as outlined in the [ACA Employer Reporting 2019 Late Filers Resources Page](#). Based on the information you provide in this file, TASC will securely send you a file of the completed IRS Form 1095-Cs for filing with the IRS. You will need to complete the IRS Form 1094-C transmittal form manually with the information you have gathered when you made your pre-filing determinations.



# IRS Reporting

Once completed these forms would be mailed directly to the IRS at:

**If your principal business, office or agency, or legal residence in the case of an individual, is located in:**

Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia

**Use the following address:**

Department of the Treasury  
Internal Revenue Service Center  
Austin, TX 73301

**If your principal business, office or agency, or legal residence in the case of an individual, is located in:**

Alaska, California, Colorado, District of Columbia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, Wyoming

**Use the following address:**

Department of the Treasury  
Internal Revenue Service Center  
P.O. Box 219256  
Kansas City, MO 64121-9256

**Employee Statements:** If you have less than 250 reportable individuals the same process you have used to create the 1095-C filing for mailing to the IRS, can be used to prepare the employee forms that are required for distribution.

These Employee Statements can be emailed to your employees if you have received Affirmative Consent. If you have failed to receive an Affirmative Consent for any one employee then you must mail the notice to said employee. See below for details and a suggested Affirmative Consent template.

If an email to any employee is returned as undeliverable and you cannot obtain the correct email address from the recipient, you must send the employee his/her Employee Statement, which must be postmarked or hand delivered in person within 30 days after the email was returned.

# IRS Reporting

The following rules are provided to assist you in deciding on the best delivery method for your employees:

**Sending the statement by mail:** If the Employee Statement is mailed, it shall be sent via first class mail to the employee's last known permanent address, or if no permanent address is known, to his/her last known temporary address. You must retain records showing an example of the mailing, to include a copy of the envelope with appropriately dated postmark, and a copy of the Statement. For another acceptable method, retain a copy of all Employee Statements with a note signed by the person who mailed the forms those details the date they were mailed.

**Providing the Statement on your website:** If the Employee Statement is furnished on your website, you must notify the employee by mail, electronic mail, or in person. The notice must provide instructions for accessing and printing the Statement, and must include the following statement in capital letters: "IMPORTANT TAX RETURN DOCUMENT AVAILABLE."

**Affirmative Consent to receive the Statement by email or online.** The best way to receive Affirmative Consent is by email. (If you receive Affirmative Consent on paper you must still confirm the Affirmative Consent by email.) The following Affirmative Consent text can be used for this purpose.

By responding YES to this email, I affirmatively consent to receive the ACA Coverage Reporting Statement (an IMPORTANT TAX RETURN DOCUMENT) from my employer, in an electronic format, by email or on my employer's website.

By responding NO to this email or failing to respond, I do not consent to receive the ACA Coverage Reporting Statement (an IMPORTANT TAX RETURN DOCUMENT) from my employer, in an electronic format, by email or on my employer's website.

I understand that I may withdraw this consent by written notice to my employer, to take effect no later than 60 days after my notice was received by my employer.

I understand a request for a paper statement will be treated as a withdrawal of my consent.

# Controlled Group

*If your company is not part of a controlled group, please disregard this section.*

In general, a Controlled Group has to complete all of the same items completed by a single employer plus some additional items. These additional requirements are outlined below.

## **ALE Determination**

If during any month of the calendar year you were a member of a Controlled Group the reporting requirements identified below will apply. The Controlled Group rules are the same as used for 401k and other retirement vehicle purposes. Related entities are treated as a single employer under section 414(b), (c), (m), or (o) including entities described under section 414(b) or (c), an affiliated service group under section 414(m), or an entity in an arrangement described under section 414(o). The employees of each member of the Controlled Group are added together to determine ALE status.

TASC will not be able to advise a Client on the Client's Controlled Group status. That determination would require a review of all corporate papers for each entity to determine ownership. Not all types of ownership are considered. This review and determination is not within the scope of services provided by TASC. TASC will rely on each client to determine and communicate their Controlled Group status to TASC.

## **Separate Treatment**

Each member entity of a Controlled Group is treated separately as follows:

### **Separate Penalties**

Under the proposed and final regulations, each ALE member is liable for its section 4980H assessable payment, and is not liable for the section 4980H assessable payment of any other entity in the controlled group.

### **Separate ACA Reporting**

Each ALE member entity of a Controlled Group files a separate Authoritative Transmittal using 1094-C. Each ALE member entity of a Controlled Group will file and send their employees the 1095-Cs.

## **Additional Data Requirements**

When you complete a transmittal form (IRS Form 1094-C), you need to indicate that you were a member of a Controlled Group and are required to enter the name and EIN number for all of the Controlled Group entities in order of size.

# Controlled Group

## Employee Notes

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 two separate ALE Members) must receive a separate Form 1095-C from each employer, unless the ALE Member is not treated as the employer for any calendar month in the calendar year.

For any calendar month in which a full-time employee works for more than one ALE Member of an Aggregated ALE Group, only one ALE Member is treated as the employer of that employee for reporting purposes (generally, the ALE Member for whom the employee worked the greatest number of hours of service), and only that ALE Member reports for that employee for that calendar month. The other ALE Member is not required to report for that employee for that calendar month, unless the other ALE Member is otherwise required to file Form 1095-C for that employee because the individual was a full-time employee of that ALE Member for a different month of the same calendar year. In this case, the individual may be treated as not employed by that ALE Member for that calendar month. If under these rules, an ALE Member is not required to report for an employee for any month in the calendar year, the ALE Member is not required to report for that full-time employee for that calendar year.

If a full-time employee works for multiple ALE members within the same aggregated ALE group (that is, works for separate employers within the same controlled group), each separate ALE member must furnish a separate IRS Form 1095-C to the employee.

# Appendix A

## Applicable Large Employer 'ALE' Worksheet Instructions

The ALE Worksheet provides a tool with which to determine and document your ACA reporting status. It is easy to use and requires you to perform some basic calculations as described below. If you determine per the Worksheet that your business is on the cusp, be sure to monitor your status and reporting requirements. To do so, simply update this Worksheet every calendar year.

It is important that you become familiar with the following terms that apply to your workforce.

**Full-Time Employees (FTEs):** The statute defines a full-time employee as one whom, with respect to any month, works at least 30 hours per week. (Note: 130 hours of service in a calendar month is considered the monthly equivalent of at least 30 hours of service per week).

An "employee" is defined under the common-law standard, the same standard used to determine whether someone is a consultant.

The employer-employee relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also regarding the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only regarding what services shall be performed, but also how it shall be performed. In this connection, the employer need not actually direct or control the manner in which the services are performed; it is sufficient if s/he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, individuals are not employees if they are subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result.

Some examples of persons not considered employees: leased employee, a sole proprietor, a partner in a partnership, and a 2% S corporation shareholder. Employees who work outside the U.S. are excluded. Typically, all persons who receive a W-2 are employees.

**Full-Time Equivalent Employees:** FTE-equivalents are included. Include and count part-time employees as a fraction of an FTE with the number of hours regularly scheduled to work over 30, or if monthly the number of hours over 120 scheduled in a month. These part-time employees are added together and become your FTE-equivalents. (Seasonal and Variable Hour employees, if applicable to your workforce, are counted as part-time employees for this calculation.)

Example -- This employer is an ALE with 50 FTEs: 40 employees are regularly scheduled to work 30 or more hours per week and 20 employees are regularly scheduled to work 15 hours per week. Each of the 40 employees is counted once and each of the 20 part-time employees is counted as a one-half employee, 15/30 or ½. This calculation adds 10 FTE-equivalents. 40 FTEs + 10 FTE-equivalents =50 total FTEs.

Example -- This employer is NOT an ALE with 50 FTEs: 40 employees are regularly scheduled to work 130 or more hours per calendar month and 15 employees are regularly scheduled to work 60 hours per calendar month. Each of the 40 employees is counted once and each of the 15 part-time employees is counted as a one-half employee, 60/120 or ½. This calculation adds 7.5 FTE-equivalents. 40 FTEs +7.5 FTE-equivalents =47 total FTEs. NOTE: Because the result is not a whole number, it is rounded to the next lowest whole number, so 47 is the result.

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Periods of time during which no duties are performed prior to a termination of employment, such as periods of time during which the employee is collecting state Worker Compensation benefits or periods of disability covered under employer-sponsored benefits.

**Special Unpaid Leave.** The time your FTE is on special unpaid leave is counted towards hours worked. Special Unpaid Leave means the following:

- 1) Unpaid leave that is subject to the Family & Medical Leave Act of 1993 (FMLA), Public Law 103–3, 29 U.S.C. 2601 et seq.;
- 2) Unpaid leave that is subject to the Uniformed Services Employment & Reemployment Rights Act of 1994 (USERRA), Public Law 103–353, 38 U.S.C. 4301 et seq.; or
- 3) Unpaid leave on account of jury duty.

During Special Unpaid Leave the hours of service are added at the rate equal to the average of the prior months during the same calendar year. There is no limit to the number of Hours of Service that can be credited with respect to Special Unpaid Leave.

**Educational Organizations Break In Service:** For an FTE's Break in Service that is not a part of a Special Unpaid Leave, count the months on leave as months worked. For instance, count staff as FTEs during the summer break with the average hour credited. No more than 501 hours of service are required to be credited.

For both Special Unpaid Leave and Educational Organizations Break in Service purposes, you may use any reasonable method to credit hours if applied consistently. If an employee's average rate is being computed for a measurement period that is shorter than six months, use the six-month period ending with the close of the measurement period to compute the average hours of service.

**Seasonal Workers:** The term Seasonal Worker is more technical than Seasonal Employee in regards to tracking ACA hours. A Seasonal Worker is one who performs labor or services on a seasonal basis. Seasonal Employees can be full-time or part-time employees.

Use the following factors to determine whether an employee is a Seasonal Worker:

- 1) The employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year. Workers who move from one seasonal activity to another, while employed in agriculture or performing agricultural labor, are employed on a seasonal basis even though they may continue to be employed during a major portion of the year.
- 2) A worker is employed for a limited time only, or his performance is contemplated for a particular piece of work, usually of short duration. Generally, employment which is contemplated to continue indefinitely, is not seasonal.

Seasonal Worker does not include the following:

- 1) The employment of any foreman or other supervisory employee who is employed by a specific agricultural employer or agricultural association essentially on a year round basis.
- 2) The employment of any worker who lives at his/her permanent place of residence on the employer's land, when that worker is employed by a specific agricultural employer or agricultural association on essentially a year round basis to perform a variety of tasks for the employer and is not primarily employed to do field work.

# Appendix A

This includes workers employed exclusively during holiday seasons. Employers may apply a reasonable, good faith interpretation of the term Seasonal Worker.

**Seasonal Workers Relief:** If your FTE count remains under 50 except for a 120-day period (can be counted as four calendar months) in which you employ over 50 individuals as Seasonal Workers, then you are not an ALE. This rule allows you to avoid ALE status when your non-seasonal workforce (including FTEs) is 50 or fewer employees. This exception does not apply if you employ more than 50 individuals for more than four calendar months. The 120 day period (4 month period) does not have to be consecutive.

**Volunteers and Work Study:** Do not count a “Bona fide volunteer” or someone participating in a “Work Study Program.”

**Bona Fide Volunteer:** An employee of a government entity or an organization described in Section 501(c) who is exempt from taxation under Section 501(a) whose only compensation from that entity or organization is in the form of—(i) Reimbursement for (or reasonable allowance for) reasonable expenses incurred in the performance of services by volunteers, or (ii) Reasonable benefits (including length of service awards), and nominal fees, customarily paid by similar entities in connection with the performance of services by volunteers.

**Work Study Program:** Do not count any hours for services performed as part of a program that provides part-time employment to students at institutions of higher education.

## ALE Worksheet Calculations

To complete the Worksheet, some basic calculations and sorting functions are necessary. You will need to sort the page for FTEs, part-timers, and seasonal employees, and must add fractions for any part-time employees to determine FTEs.

As mentioned earlier, if you determine per the Worksheet that your business is on the cusp, be sure to monitor your status and reporting requirements. To do so, simply update this Worksheet every calendar year. No matter your determination, we recommend that you complete the Worksheet every calendar year.

## Entering Data

- Columns A and B: Enter a line for each employee. Include all classes of employees defined above. The ID field is optional for your use in sorting or locating data.
- Column C: Enter the hours regularly scheduled to work during the month. Do not enter reductions for Special Unpaid Leaves defined above, approved leaves, vacations, or overtime.
- Column D: Enter the status – FTE, Part-Time.
- Column E: Enter Yes or No for Seasonal Employee status.

## Calculations

- 1) Sort each monthly spreadsheet by the status.
- 2) Count each FTE once. Seasonal employees who are considered FTEs are counted here. Enter the number of FTEs for each month on the first tab, Line 6, “Count.”
- 3) Add Part-Time Employee hours together for each month; enter total PTE hours for each month on the first tab, Line 12, “Hours.” Line 13 will automatically divide the number of PTS hours by 120 to give you the number of FTE-equivalent employees.
- 4) Line 18, first tab: automatically adds Line 6, your count of FTEs, and Line 13, your FTE-equivalent employees.
- 5) Line 18, Column O, under “Average” will provide you with your average FTE count for ACA reporting purposes.



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## Seasonal Relief Rule – if applicable

- 1) Sort each month by Column E, “Seasonal Employees.”
- 2) Remove the Seasonal Employees from the FTE count and enter the number of remaining Non-Seasonal FTEs on Line 26 on the first tab.
- 3) Recalculate the part-time hours by removing seasonal employees. Add non-seasonal part-time hours for each month, and enter them on the first tab for each month, line 32.
- 4) You are not an ALE if your average on line 38, column O is under 50.
- 5) You are not an ALE if there are four months in which the FTE count on Line 38 is under 50. The four month period does not have to be consecutive.

## AVA Veterans

Specifically, an employee is not taken into account for the ALE determination for any month that he or she has medical coverage provided by any of the uniformed services (including TRICARE) or under certain Veterans’ Affairs (VA) health care programs. The exemption applies for months beginning after Dec. 31, 2013.

**Exemption for Health Coverage Under Tricare or the Veterans Administration:** Solely for purposes of determining whether an employer is an applicable large employer under this paragraph for any month, an individual shall not be taken into account as an employee for such month if such individual has medical coverage for such month under:

- (i) chapter 55 of title 10, United States Code, including coverage under the TRICARE program, or
- (ii) under a health care program under chapter 17 or 18 of title 38, United States Code, as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary.

# Appendix B

## Minimum Value (MV) Checklists

A Plan does not provide MV if it excludes substantial coverage for in-patient hospitalization services or physician services (or both). This includes Plans referred to as “skinny plans” that fail to meet the essential benefits definition in the ACA, and includes tax advantaged account Plans such as HRAs or health FSAs, whether considered an excepted benefit or not. Certain safe harbor Plan designs that satisfy MV will be specified in additional federal guidance under Sections 36B or 4980H. It is anticipated that the guidance will provide that the safe harbors are examples of Plan designs that would satisfy the 60% threshold if measured using the MV Calculator. The safe harbors are intended to provide an easy way (without having to use the MV Calculator) for Plan Sponsors of typical employer-sponsored group health plans to determine whether a Plan meets the MV threshold.

During the interim, Plan designs that meet the following specifications are proposed as safe harbors for determining MV, if the Plans cover all of the benefits listed below:

- 1) A Plan with a \$3,500 integrated medical and drug deductible, 80% Plan cost-sharing, and a \$6,000 maximum out-of-pocket limit for employee cost-sharing;
- 2) A Plan with a \$4,500 integrated medical and drug deductible, 70% Plan cost-sharing, a \$6,400 maximum out-of-pocket limit, and a \$500 employer contribution to an HSA; and
- 3) A Plan with a \$3,500 medical deductible, \$0 drug deductible, 60% Plan medical expense cost-sharing, 75% Plan drug cost-sharing, a \$6,400 maximum out-of-pocket limit, and drug co-pays of \$10/\$20/\$50 for the first, second and third prescription drug tiers, with 75% coinsurance for specialty drugs.

The following benefits must be included:

- All Inpatient Hospital Services (including mental health and substance abuse)
- Emergency Room Services
- Imaging (CT/PET Scans, MRIs)
- Laboratory Outpatient and Professional Services
- Mental/Behavioral Health and Substance Abuse Disorder Outpatient Services
- Outpatient Facility Fee (e.g., Ambulatory Surgery Center)
- Outpatient Surgery Physician/Surgical Services
- Prescription Drugs, generic, preferred brand, non-preferred brand and specialty high cost drugs
- Preventive Care/Screening/Immunization
- Primary Care Visit to Treat an Injury or Illness (exc. Well Baby, Preventive, and X-rays)
- Rehabilitative Occupational and Rehabilitative Physical Therapy
- Rehabilitative Speech Therapy
- Skilled Nursing Facility
- Specialist Visit, and
- X-rays and Diagnostic Imaging

# IRS Reporting Data Summary - IRS Form 1095-C

## IRS Form 1095-C Employer-Provided Health Insurance Offer and Coverage

Please review this section prior to populating the appropriate file format that is available to you on the [ACA Employer Reporting 2019 Late Filers Resources Page](#).

### Which Employees are Reported

**Full-time employees:** An ALE must file Form 1095-C for each FTE for each month of the calendar year.

**Self-insured Rule:** In addition, an ALE member who sponsors a self-insured health plan must file Form 1095-C for all covered employees to include their covered family members, regardless of whether the employee is an FTE for any month of the calendar year.

The statute defines an FTE as one whom, with respect to any month, works at least 30 hours per week (130 hours of service in a calendar month is treated as the monthly equivalent of at least 30 hours of service per week).

**Note:** An “employee” is defined under the common-law standard, the same standard used in determining whether someone is a consultant.

The employer-employee relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only regarding the result to be accomplished by the work but also the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only regarding what shall be done but how it shall be done as well. In this connection, the employer need not actually direct or control the manner in which the services are performed; it is sufficient if he/she has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, an individual is not an employee if he/she is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result.

Some examples of persons not considered employees: leased employee, a sole proprietor, a partner in a partnership, and a 2% S corporation shareholder. Employees who work outside the U.S. are excluded. Typically, all persons who receive a Form W-2 are employees.

**Special Unpaid Leave:** When your FTE is on special unpaid leave the time is counted towards the employee’s hours of service. There are special rules for determining the “average hours” for tracking purposes. For this purpose, count any month in which an employee was out on special unpaid leave as a full-time month.

Special Unpaid Leave means—

1. Unpaid leave that is subject to the Family & Medical Leave Act of 1993 (FMLA), Public Law 103–3, 29 U.S.C. 2601 et seq.;
2. Unpaid leave that is subject to the Uniformed Services Employment & Reemployment Rights Act of 1994 (USERRA), Public Law 103–353, 38 U.S.C. 4301 et seq.; or
3. Unpaid leave on account of jury duty.

# IRS Reporting Data Summary - IRS Form 1095-C

## Demographic Data Fields

Many fields on the Employee Statement (IRS Form 1095-C) are self-explanatory and not detailed in this Summary (such as but not limited to names, addresses, EIN numbers).

## Employee Statement (IRS Form 1095-C)

Various technical terms and codes must be understood in order to report. For each month, your IRS filing must show that coverage has been offered, or that the offer is excused (for instance the month is subject to a Limited Non-Assessment Period). The IRS has broken the Limited Non-Assessment Period excuses into codes provided below with detailed descriptions. Report these codes on the file format to assist with populating the Form 1095-C as applicable. Remember, this information drives any 4980H Penalties that could be due.

## Employee Share (number with 2 decimal points)

This is the employee contribution for the lowest cost employee only coverage offered under your Plan, even if no one has elected that option. This amount (a) is the same for all employees submitted within a particular benefits class, (b) is not the amount paid by any one employee, and (c) may change during the calendar year. (For example, if your Plan Year is not a calendar year and you adjust employee contributions at open enrollment.) See ACA Employer Reporting Manual, "Is your Plan Affordable?" content for detail regarding this requirement.

## 4980H Safe Harbor (2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H)

Enter the applicable code below, if any, for a month in which one of the following situations applied to the employee:

- the employee was not employed or was not an FTE;
- the employee enrolled in the MEC offered;
- the employee is in a Limited Non-Assessment Period; and
- any affordability safe harbors with respect to this employee.

In some circumstances more than one situation applies to the same employee in the same month. (For example, an employee could be enrolled in health coverage for a particular month in which he/she is not an FTE.) Nevertheless, you may use only one code for a particular calendar month. For any month in which an employee enrolled in MEC, enter Code 2C Reporting Enrollment instead of any other code that could also apply. For an employee who did not enroll in health coverage, specific ordering rules provided below. Remember, these codes excuse you from a 4980H(b) Penalty.

**2A. Employee not employed during the month.** Enter Code 2A if the employee was not employed on any day of the calendar month. Do not use Code 2A for any month in which the individual was an employee on any day of that calendar month. Do not use Code 2A for any month in which an employee terminates employment with the employer.

**2B. Employee not an FTE.** Enter Code 2B if the employee is not an FTE for the month and did not enroll in minimum essential coverage, if offered for the month.

Also enter Code 2B if the employee is an FTE for the month and his/her offer of coverage (or coverage if the employee was enrolled) ended before the last day of the month solely because the employee terminated employment during the month. (In sum, the offer of coverage or actual coverage would have continued if the employee had not terminated employment during the month.)

**2C. Employee enrolled in coverage offered.** Enter Code 2C for any month in which the employee enrolled in health coverage offered by the employer, regardless of whether any other code in Code Series 2 might also apply. This is the most common code used for ongoing FTES who remain covered under your Plan.

# IRS Reporting Data Summary - IRS Form 1095-C

2D. Enter Code 2D for an employee in a Limited Non-Assessment Period. The “Limited Non-Assessment Periods” to consider:

- 1) An employer’s first year as an ALE, see the ACA Employer Reporting Manual, “Are you a New ALE?” content for details on the transition relief and whether you qualify to enter this code for any month.
- 2) An employer who uses the Monthly Measurement Period uses Code 2D for the first three full calendar months following the first month an employee becomes eligible for an offer of MV affordable coverage. This applies only to the first time an employee is eligible for an offer of coverage during his/her employment.
- 3) For a new FTE (not a seasonal employee), if you use the Look Back Measurement Period enter Code 2D for the three-month period beginning with the first day of the first full calendar month of employment if, for the calendar month in which the employee is otherwise eligible for an offer of coverage under your group health plan, and the employee will be offered coverage no later than the first day of the fourth full calendar month of employment if the employee is still employed on that day. This is the most common code entered for an FTE who is in a Plan’s waiting period.
- 4) Employees determined to be employed on average at least 30 hours of service per week. Use Code 2D with respect to a new variable hour, new seasonal, or new part-time employee who has averaged at least 30 hours per week during any month that falls within his/her initial measurement period, and the initial administrative period, provided that the employee is offered MV affordable coverage no later than the first day of the associated stability period if the employee is still employed on that day.
- 5) Change in employment status during the initial measurement period. Enter Code 2D when a new variable hour, new seasonal, or new part-time employee experiences a change in employment status to become an FTE before the end of the initial measurement period. Enter the code for any month before the fourth full calendar month following the change in employment status.
- 6) Use Code 2D for any month in which coverage was not provided the entire month because the employee’s start and/or termination of employment date is not the first day of the month.

**Note:** If an employee is in an initial measurement period, enter Code 2D (employee in a Limited Non-Assessment Period) for the month, and not Code 2B (employee not an FTE).

- 2E. Enter Code 2E for any month in which an FTE is covered under a group health plan required by a collectively bargained agreement or appropriate related participation agreement, when you as the employer make a contribution to the coverage on behalf of the FTE. By entering this code, your contribution to the coverage will be considered an “offer” under the ACA.
- 2F. Section 4980H Affordability Form W-2 Safe Harbor. Enter Code 2F if you used the W-2 Safe Harbor to determine affordability. See the ACA Employer Reporting Manual, “Is your Plan Affordable?” content for detail regarding this requirement and the safe harbors available.
- 2G. Section 4980H Affordability Federal Poverty Line Safe Harbor. Enter Code 2G if you used the Section 4980H Federal Poverty Line Safe Harbor to determine affordability. See the ACA Employer Reporting Manual, “Is your Plan Affordable?” content for detail regarding this requirement and the safe harbors available.
- 2H. Section 4980H Affordability Rate of Pay Safe Harbor. Enter Code 2H if you used the Rate of Pay Safe Harbor to determine affordability. See the ACA Employer Reporting Manual, “Is your Plan Affordable?” content for detail regarding this requirement and the safe harbors available.

# IRS Reporting Data Summary - IRS Form 1095-C

## Offer of Coverage Codes (1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1J, 1K)

Use the Offer of Coverage Codes to report whether an offer of coverage was made to an employee for each month of the year, and if so what type of coverage was provided. An Offer of Coverage is considered to have been made for a month only if the coverage would be provided for every day of that month.

Enter the appropriate code for each employee in the appropriate month field.

- 1A. Qualifying Offer: Minimum essential coverage providing minimum value offered to FTE with employee contribution for self-only coverage equal to or less than 9.86% (as adjusted) mainland single federal poverty line and at least minimum essential coverage offered to spouse and dependent(s).
- 1B. Minimum essential coverage providing minimum value offered to employee only.
- 1C. Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) (not spouse).
- 1D. Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to spouse (not dependent(s)).
- 1E. Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage offered to dependent(s) and spouse.
- 1F. Minimum essential coverage NOT providing minimum value offered to employee, or employee and spouse or dependent(s), or employee, spouse and dependents.
- 1G. Offer of coverage to employee who was not an FTE for any month of the calendar year and who enrolled in self-insured coverage for one or more months of the calendar year.

An employer who sponsors a self-insured health plan may report enrollment information for individuals who were not employees on any day of the calendar year by entering Code 1G for all twelve months. Such individuals might include a non-employee director, a terminated employee receiving COBRA coverage who terminated employment in a previous calendar year, a retired employee who terminated employment in a previous calendar year, or a family member (including a surviving spouse or dependent) of such an individual if the family member is receiving coverage independent of the individual, such as a surviving spouse of a retiree who is enrolled in the Plan because the retiree elected self plus spousal coverage.

- 1H. No offer of coverage (employee not offered any health coverage or employee offered coverage that is not minimum essential coverage). For the first month of employment, report that the employee was not offered coverage for that first month by entering Code 1H (unless the offer of coverage extended to every day of that month). For example, a newly-hired employee starts employment on the 10th day of a calendar month, and accepts the offer of coverage, to begin on the 10th day of the next calendar month; you must indicate that the employee was not offered coverage for that first month.

If an employee terminates employment on any day other than the last day of a month and the coverage or offer of coverage expires upon termination of employment, enter Code 1H to report that the employee was not offered coverage for that final month of employment.

# IRS Reporting Data Summary - IRS Form 1095-C

- 1J. Minimum essential coverage providing minimum value offered to employee and at least minimum essential coverage conditionally offered to spouse; minimum essential coverage not offered to dependent(s). A conditional offer is an offer of coverage that is subject to one or more reasonable, objective conditions (for example, an offer to cover an employee's spouse only if the spouse is not eligible for coverage under Medicare or a group health plan sponsored by another employer).
  
- 1K. Minimum essential coverage providing minimum value offered to employee; at least minimum essential coverage offered to dependents; and at least minimum essential coverage conditionally offered to spouse. A conditional offer is an offer of coverage that is subject to one or more reasonable, objective conditions (for example, an offer to cover an employee's spouse only if the spouse is not eligible for coverage under Medicare or a group health plan sponsored by another employer.)

## Self-Funded Only

In order for you to report covered dependents to the IRS you will need the date of birth for each dependent, and if available, their social security number. When there are multiple births on the same day, for instance twins, then the social security numbers are required.



# Important IRS Updates - IRS Form 1095-C

The IRS recently released final instructions for completion of Forms 1094-C and 1095-C (related to the Employer mandate) and Forms 1094-B and 1095B (related to the Individual mandate). A number of important items in this final guidance are addressed below.

## General Rules That are Applicable to COBRA Participants

ACA mandates that an ALE must offer Minimum Essential Coverage to FTEs and their dependents that is both affordable and of minimum value in order to avoid penalties. The ALE reports such information to both the IRS and the employee. Forms used for this purpose are the 1094-C and 1095-C.

Employers are only responsible for ACA penalties related to coverage for FTEs and FTE's dependents. Since the employee who is now a COBRA participant is either terminated or part time there is no possibility for an Employer ACA penalty.

The Employer Mandate reporting instructions for form 1095-C (Part II) requires the Employer to enter an Offer of Coverage code and a 4980H Safe Harbor code for each month of the year, even the months after termination of employment. These data fields, are not associated with any chance of penalties, they are merely fillers required by the IRS.

In addition, under ACA there is an Individual Mandate requiring individuals to maintain MEC coverage throughout the calendar year. In general reporting for the Individual Mandate is the responsibility of the entity issuing the coverage.

- For insured plans that is the insurance company, HMO, who send the covered person a Form 1095-B.
- For self-funded plans that is the Employer. An ALE will typically fulfill this requirement by including this information on IRS Form 1095-C in Part III. This is in lieu of issuing a 1095-B form. Employer will send employees and COBRA Qualified Beneficiaries a Form 1095-C.

## Insured Plans

For the Employer Mandate reporting on IRS Form 1095-C (Part II), please note the following:

- Termination Of Employment
  - The Codes sent for the month following the loss of coverage through the end of the calendar year:
    - Report 1H (Offer of Coverage), no premium reported for the lowest cost self only coverage (Employee Share), and 2A (4980H Safe Harbor) regardless of whether COBRA coverage is elected.
  - Please note: The individual would not be reported in subsequent calendar years.
- Reduction In Hours:
  - The Codes sent for the month of the loss of coverage through the end of the calendar year:
    - If the Employee enrolls in COBRA Coverage, report the Offer of Coverage using the appropriate 1X Code (e.g., 1A, 1B, etc.) for the month coverage was lost and the remaining coverage period, the premium amount (Employee Share) reported = 102% of the actual cost of the lowest employee only coverage (the COBRA premium), and 2B (4980H Safe Harbor).
    - If the Employee did not enroll in COBRA coverage, report the Offer of Coverage using the appropriate 1X Code (e.g., 1A, 1B, etc.) for the month coverage was lost and the remaining coverage period, no Employee Share and 2B (4980H Safe Harbor).
  - Please note: Individual would not be reported in subsequent calendar years.

# Important IRS Updates - IRS Form 1095-C

Employers with insured plans rely on the carrier to send the employee a 1095-B (to fulfill the Individual Mandate reporting requirement).

## Self-Funded Clients

For the Employer Mandate reporting on IRS Form 1095-C (Part II), please note the following:

- Termination of Employment:
  - o The Codes used for the month following the loss of coverage through the end of the calendar year:
    - Report 1H (Offer of Coverage), no Employee Share, and 2A (4980H Safe Harbor) regardless of whether COBRA coverage is elected.
    - If the terminated employee did not enroll in COBRA, but the spouse or dependents enrolled independently they would be reported on their own report line using 1G (Offer of Coverage) for each month covered, no Employee Share (line 15), and no 4980H Safe Harbor. This coding is done as these enrolled individuals must still be reported for the Individual Mandate.
  - o Please note that for the next calendar year report only those terminated employees who enrolled in COBRA coverage using 1G (Offer of Coverage) for each month covered, no Employee Share (line 15), and no 4980H Safe Harbor.
    - This coding is done as the enrolled COBRA participant and any spouse or dependent under their coverage must still be reported for the Individual Mandate.
    - Those who did not enroll in COBRA coverage are dropped from reporting.
    - If the terminated employee did not enroll in COBRA, but the spouse or dependents enrolled independently they would be reported on their own report line using 1G (Offer of Coverage) for each month covered, no Employee Share (line 15), and no 4980H Safe Harbor. This coding is done as enrolled individuals must still be reported for the Individual Mandate.
  
- Reduction in hours - self funded
  - o The Codes sent for the month of the loss of coverage through the end of the calendar year:
    - If the Employee enrolls in COBRA coverage, report the Offer of Coverage using the appropriate 1X Code (e.g., 1A, 1B, etc.) for the month coverage was lost and the remaining coverage period, the Employee Share = 102% of the actual cost of the lowest employee only option (the COBRA premium), and 2B (4980H Safe Harbor).
    - If the Employee does not enroll in COBRA coverage, report the Offer of Coverage using the appropriate 1X Code (e.g., 1A, 1B, etc.) for the month coverage was lost and the remaining coverage period, no Employee Share and 2B (4980H Safe Harbor).
  - o Please note that for the next calendar year report only those reduced hour employees who enrolled in COBRA coverage using 1G (Offer of Coverage) for each month covered, no Employee Share (line 15), and no 4980H Safe Harbor.
    - This coding is done as enrolled COBRA participants and any spouse or dependent under their coverage must still be reported for the Individual Mandate.
    - Those who did not enroll in COBRA coverage are dropped from reporting.
    - If the terminated employee did not enroll in COBRA, but the spouse or dependents enrolled independently they would be reported on their own report line using 1G (Offer of Coverage) for each month covered, no Employee Share (line 15), and no 4980H Safe Harbor. This coding is done as enrolled individuals must still be reported for the Individual Mandate.

# Important IRS Updates - IRS Form 1095-C

## Employees in a Limited Non-Assessment Period

- For employees in waiting periods who never advanced out of said waiting period:
  - No IRS Form 1095-C need be produced and/or filed (employee need not receive IRS Form 1095-C).
  - On IRS Form 1094-C these individuals must be counted and included.

New IRS guidance offers the following tip:

“An employer need not file a IRS Form 1095-C for an individual who for each month of a calendar year is either not an employee of the employer or is an employee in a Limited Non-Assessment Period.

However, for the months in which the employee was an employee of the employer, such an employee would be included in the total employee count reported on IRS Form 1094-C, Part III, Column (c). Also, if during the Limited Non-Assessment Period the employee enrolled in coverage under a self-insured employer-sponsored plan, the employer must file a Form 1095-C for the employee to report coverage information for the year.”

## Health Reimbursement Accounts (HRAs)

- Employers with Health Reimbursement Accounts that are integrated with a fully-insured group health plan are not required to report the HRA coverage. (It had already been established that an employer with an HRA integrated with a self-insured group health plan is not required to report that HRA coverage.)

# Reporting Data Summary - Form 1094-C

## IRS Form 1094-C Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

### Demographic Data Fields

**PART I** – The fields in the first sections of Part I of IRS Form 1094-C are self-explanatory and not detailed in this Summary (such as but not limited to employer name, addresses, EIN number, contact, etc.)

Line by line information/instructions are as follows:

### **PART I Applicable Large Employer Member (ALE Member)**

- Line 18 “Total number of Forms 1095-C submitted with this transmittal”  
Enter the number of 1095-C that have been produced.
- Line 19 “Is this the authoritative transmittal for this ALE Member?”  
If “Yes,” check the box and continue. If “No,” see instructions

If this Form 1094-C transmittal is the Authoritative Transmittal that reports aggregate employer-level data for the ALE Member, check the box on line 19 and complete Parts II, III, and IV, to the extent applicable. Otherwise, complete the signature portion of Form 1094-C and leave the remainder of Parts II, III, and IV blank.

There must be only one Authoritative Transmittal filed for each ALE Member. If this is the only IRS Form 1094-C being filed for the ALE Member, this IRS Form 1094-C must report aggregate employer-level data for the ALE Member and be identified on line 19 as the Authoritative Transmittal. If multiple Forms 1094-C are being filed for an ALE Member so that Forms 1095-C for all full-time employees of the ALE Member are not attached to a single Form 1094-C transmittal (because Forms 1095-C for some full-time employees of the ALE Member are being transmitted separately), one (and only one) of the Forms 1094-C must report aggregate employer-level data for the ALE Member and be identified on line 19 as the Authoritative Transmittal. (See Control Group section of this manual).

### **PART II ALE Member Information**

- Line 20 “Total number of Forms 1095-C filed by and/or on behalf of ALE Member.”  
Enter the total number of Forms 1095-C (not counting continuation sheets) that will be filed by and/or on behalf of the ALE Member. This includes all Forms 1095-C that are filed with this transmittal including those filed for individuals who enrolled in the employer-sponsored self-insured plan, if any, and for any Forms 1095-C filed with a separate transmittal filed by or on behalf of the ALE Member that is not an Authoritative Transmittal.
- Line 21 “Is ALE Member a member of an Aggregated ALE Group?”  
If during any month of the calendar year the ALE Member was a member of an Aggregated ALE Group, check “Yes.” If you check “Yes,” also complete the “Aggregated Group Indicator” in Part III, column (d), and then complete Part IV to list the other members of the Aggregated ALE Group. If, for all 12 months of the calendar year, the employer was not a member of an Aggregated ALE Group, check “No,” and do not complete Part III, column (d), or Part IV. If “No,” do not complete Part IV.

# Reporting Data Summary - Form 1094-C

- Line 22. “Certifications of Eligibility (select all that apply)”  
Qualifying Offer Method and/or 98% Offer Method (See the Determining your Status under the ACA section of this manual.)
- Sign and date form

## Part III ALE Member Information—Monthly

This Part II will be completed either by completing Line 23 for all 12 months or by completing Lines 24 through 33 for each individual calendar month (January through December) .

(a) Minimum Essential Coverage Offer Indicator – Check Yes or No. (Please refer to page 8 of this manual regarding Minimum Value)

(b) Section 4980H Full-Time Employee Count for ALE Member – Enter your Full-Time Employee Count

(c) Total Employee Count for ALE Member – Enter your total employee count.

(d) Aggregated Group Indicator (check if applicable) - An ALE Member must complete this column if it checked “Yes” on line 21, indicating that, during any month of the calendar year, it was a member of an Aggregated ALE Group. If the ALE Member was a member of an Aggregated ALE Group during each month of the calendar year, enter “X” in the “All 12 Months” box or in the boxes for each of the 12 calendar months. If the ALE Member was not a member of an Aggregated ALE Group for all 12 months but was a member of an Aggregated ALE Group for one or more month(s), enter “X” in each month for which it was a member of an Aggregated ALE Group. If an ALE Member enters “X” in one or more months in this column, it must also complete Part IV.

## Part IV—Other ALE Members of Aggregated ALE Group (Lines 36–65)

An ALE Member must complete this section if it checks “Yes” on line 21. If the ALE Member was a member of an Aggregated ALE Group (with other ALE Members) for any month of the calendar year, enter the name(s) and EIN(s) of up to 30 of the other Aggregated ALE Group members (not including the reporting ALE Member). If there are more than 30 members of the Aggregated ALE Group (not including the reporting ALE Member), enter the 30 with the highest monthly average number of full-time employees (using the number reported in Part III, column (b), if a number was required to be reported) for the year or for the number of months during which the ALE Member was a member of the Aggregated ALE Group. If any member of the Aggregated ALE Group uses the 98% Offer Method and thus is not required to identify which employees are full-time employees, all ALE Members of the Aggregated ALE Group should use the monthly average number of total employees rather than the monthly average number of full-time employees for this purpose. Regardless of the number of members in the Aggregated ALE Group, list only the 30 members in descending order, listing first the member with the highest average monthly number of full-time employees (or highest average number of total employees, if any member of the Aggregated ALE Group uses the 98% Offer Method), but do not include the reporting ALE Member. The reporting ALE Member must also complete Part III, column (d), to indicate which months it was part of an Aggregated ALE Group.

For electronic filing of 1094-C and 1095-C information see “Electronic Filing with IRS” in formation sheet.

COBRA  
HRA  
FlexSystem (FSA)  
ERISA  
FMLA  
Transit & Parking  
PayPath (Payroll)  
HSA