The Affordable Care Act
Part II
Collection/Record Keeping and Government Filings

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Purpose of Data Collection

• Provide IRS enough information to administer the following:
  • Section 656  Shared Responsibility For Employer (§4980H)
  • Section 655  Shared Responsibility For Individuals (§5000A)
Employer Mandate

- Employer mandate – tax penalty for “large employers” that don’t offer minimum essential coverage to full-time employees (and their dependents) – applies to employers with more than 99 employees in 2015
- Employers with 50-99 employees have until 2016 to comply – conditions for relief

A large employer is subject to penalty if at least one full-time employee receives a subsidy for exchange coverage and:

- The employer fails to offer coverage to “substantially all” full-time employees (and their dependents) (the “no coverage penalty”); or
- Coverage is unaffordable (employee contribution must be less than 9.5% of income) or does not provide minimum value (the “inadequate coverage penalty”)

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Inadequate Coverage Penalty

A large employer is subject to a penalty if at least one full-time employee receives a subsidy for exchange coverage and coverage is unaffordable or does not provide minimum value.
• **Penalty amounts**
  
  • No coverage penalty: $2,000 per year, per full-time employee in excess of 30 full-time employees (80 in 2015)
  
  • Inadequate coverage penalty: $3,000 per year, per full-time employee for whom coverage is unaffordable or does not provide minimum value and who receives a subsidy to purchase coverage through an exchange
  
  • Penalty amounts are indexed: $2,000 penalty is estimated to be $2,120 in 2015 and $3,000 penalty is estimated to be $3,180 in 2015
What are the Different Methods of Counting Hours?

- Methods of counting hours
  - EEs paid on an hourly basis – actual hours
  - EEs paid on a non-hourly basis – actual hours or equivalency method
    - One day = 8 hours
    - One week = 40 hours
    - One month = 130 hours
    - Method can be changed once per year
    - Can use different methods for different categories of EEs
    - Prohibit use of equivalencies if use would result in substantial understatement of hours
Time-Line Example
Current Employees Calendar Year Plan
1/1/2015
1st and 2nd Determination Year

Nov 1, 2014 to Dec 31, 2014
1st Administrative Period

Nov 1, 2015 to Dec 31, 2015
2nd Administrative Period

Nov 1, 2013 to Oct 31, 2014
1st Standard Measurement Period

Jan 1, 2015 to Dec 31, 2015
1st Stability Period

Nov 1, 2014 to Oct 31, 2015
2nd Standard Measurement Period

Jan 1, 2016 to Dec 31, 2016
2nd Stability Period
Data Collection – What Information Needs to be Collected?

• §656 – Shared Responsibility For Employer (§4980H)
  • Employer’s name, address, EIN number.
  • Large employer contact person information (name and telephone number).
  • Certification whether employees and dependents offered Minimum Essential Coverage (“MEC”) by calendar month.
  • Number of full-time employees (“FTE”) for each calendar month and the month offered.
  • For each FTE the employee’s share of the lowest cost monthly premium for self-only coverage by calendar month.
  • The name, address and social security number of each FTE and months covered.
Data Collection – What Information Needs to be Collected?

• §655 – Shared Responsibility For Individuals (§5000A)
  • Social Security number for all covered individuals – provide date of birth if Social Security number is not available.
  • Employer EIN number.
  • Months individual is enrolled and entitled for at least one day to receive benefits.
## Government Filings

<table>
<thead>
<tr>
<th>What needs to be filed</th>
<th>Form 1094-C</th>
<th>} Transmittal Form - Large Employers with self insured plans (50 or more FTEEs)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Form 1095-C</td>
<td>} Report info required under Section 656 Small employers with self-insured plans are also required to file under 1095-C (Part III must be completed only for self insured plans)</td>
</tr>
<tr>
<td></td>
<td>Form 1095-B</td>
<td>} Report info required under Section 655 Transmittal for Health Insurance Companies, small self insured plans</td>
</tr>
<tr>
<td></td>
<td>Form 1094-B</td>
<td>}</td>
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</tbody>
</table>

| What needs to be provided to employees | Annual statement – informational return (e.g. combined §655 and §656 filings and Form W-2) |
Government Filings

Who is required to file a Form 1094-C
Released July 24, 2014 Instructions when released in August

Large Employers –
2015 – 50 or more full-time equivalent employees.
Each Large Employer Member Filing requirements apply on a control group member by member basis.

Who is required to file a Form 1095-B

Insurance Company, multi-employer plans, small employer self-insured plans, and government plans.
Government Filings

Is it possible to have a composite filing?

Yes – Form 1095-C will be used to satisfy Sections 655 and 656.

A Large Employer sponsoring a self-insured plan will complete both sections of Form 1095-C.

A Large Employer that provides insured coverage will report on Form 1095-C.

The information required under 1095-C Part III is not required to be completed.
## Government Filings Timing

| When must the Forms be filed? | No later than February 28<sup>th</sup> (March 31<sup>st</sup> if filed electronically) of the year following the calendar year that the statements relate. First Returns March 1, 2016 or March 31, 2016. |
| When must the employee communication be received | Each reporting entity must furnish annual employee statements to those employees offered MEC on or before January 31<sup>st</sup> of the year immediately following the calendar year that the statement relate. First communication February 1, 2016. |
Government Filings Manner of Filing

Can the transmittal forms be electronically filed

Large Employers must electronically file returns of 250 or more.
Filing Short-Cuts

Are there any reporting short cuts?

• Qualifying Offer Method
  • Only simplifies 1095-C
  • Employer can use Qualifying Code 1A instead of reporting the monthly employee contribution for the lowest-cost employee only coverage providing MEC.
  • Employer may provide its full-time employees who receive a Qualifying Offer a simplified employee statement
  • For all methods except the 98% the employer is required to offer single-coverage at the Federal poverty level.
  • All short-cuts require spousal and dependent coverage
Filing Short-Cuts

• Qualifying Offer Method Transition Relief
  • For 2015 Calendar Year Only
  • Employer must certify that it made a qualifying offer for one or more months to at least 95% of its full-time employees
  • Employer must use Qualifying code 1I for the months in 2015 it qualifies for transition relief & use code 1A for months the employee received a Qualifying offer.
Filing Short-Cuts

• Section 4980H Transition Relief
  • 50-99 Employees
  • 100 or more (penalty is reduced by 80)
  • Must identify in Part III of Form 1094-C whether employer is eligible for transition relief
Filing Short-Cuts

• 98% Offer Method
  • Must provide MEC
  • Can satisfy any of the affordability safe harbors
  • Provide MEC to 98% of employees & their dependents for whom filing a Form 1095-C
  • Simplified 1094-C reporting
  • Not required to report the number of full-time employees in Part III and not required to identify which employees are full-time.
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