



ACA COMPLIANCE BULLETIN

DRAFT FORMS FOR 2017 ACA REPORTING RELEASED

On July 28, 2017, the Internal Revenue Service (IRS) released draft 2017 forms for reporting under Internal Revenue Code (Code) Sections 6055 and 6056.

- > 2017 draft Forms [1094-C](#) and [1095-C](#) (and related [draft instructions](#)) will be used by applicable large employers (ALEs) to report under Section 6056, as well as for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.
- > 2017 draft Forms [1094-B](#) and [1095-B](#) (and related [draft instructions](#)) will be used by entities reporting under Section 6055, including self-insured plan sponsors that are not ALEs.

Instructions for these 2017 forms were released on Aug. 31, 2017. The draft 2017 forms are substantially similar to the final 2016 versions, except that sections related to expired Section 4980H Transition Relief were removed.

ACTION STEPS

Employers should become familiar with the planned revisions to the forms. However, **these forms are draft versions only**, and should not be filed with the IRS or relied upon for filing.

HIGHLIGHTS

- > Draft forms for 2017 reporting under Section 6055 and Section 6056 are now available.
- > Draft instructions for 2017 were released the following month.
- > The draft 2017 forms are substantially similar to the final 2016 versions of the forms.
- > Additional clarifications were included in the draft instructions.

IMPORTANT DATES

- > **January 31, 2018**
Individual statements for 2017 must be furnished by Jan. 31, 2018.
- > **February 28, 2018**
IRS returns for 2017 must be filed by Feb. 28, 2018 (April 2, 2018, if filed electronically, since March 31, 2018, is a Sunday).

BACKGROUND

The Affordable Care Act (ACA) created reporting requirements under Code Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) or provide to their employees. Each reporting entity must annually file all of the following with the IRS:

- > A separate **statement** (Form 1095-B or Form 1095-C) for each individual who is provided with minimum essential coverage (for providers reporting under Section 6055), or for each full-time employee (for ALEs reporting under Section 6056); and
- > A **transmittal form** (Form 1094-B or Form 1094-C) for all of the returns filed for a given calendar year.

The 2017 draft forms are substantially similar to the final 2016 versions. However, sections related to expired Section 4980H Transition Relief were removed.

Reporting entities must also furnish related statements (Form 1095-B or 1095-C, or a substitute form) to individuals.

Forms must generally be filed with the IRS no later than Feb. 28 (March 31, if filed electronically) of the year following the calendar year to which the return relates. Individual statements must be furnished to individuals on or before Jan. 31 of the year immediately following the calendar year to which the statements relate.

2017 DRAFT FORMS AND INSTRUCTIONS

The 2017 draft forms and instructions are substantially similar to the final 2016 versions. However, note the following changes:

- > **Section 4980H Transition Relief.** Several forms of transition relief were available to some employers under Section 4980H for the 2015 plan year (including any portion of the 2015 plan year that fell in 2016). However, [no Section 4980H transition relief is available for 2017](#). As a result, the 2017 draft instructions for Forms 1094-C and 1095-C were revised to remove references to Section 4980H transition relief. In addition, Form 1094-C has been revised to remove references to this transition relief. Specifically, the following two sections on Form 1094-C related to this transition relief have been designated as "Reserved" and should not be used: Part II, in the "Certifications of Eligibility" Section on Line 22, Box C; and Part III, in the "ALE Member Information – Monthly" table, column (e).
- > **Instructions for Recipient.** Both individual statements (Forms 1095-B and 1095-C) include an "Instructions for Recipient" section. On both of the 2017 draft Forms 1095-B and 1095-C, the following paragraph was added: "Additional information. For additional information about the tax provisions of the Affordable Care Act (ACA), including the individual shared responsibility provisions, the premium tax credit, and the employer shared responsibility provisions, see www.irs.gov/Affordable-Care-Act/Individuals-and-Families or call the IRS Healthcare Hotline for ACA questions (1-800-919-0452)."



- > **Updated Penalty Amounts.** Both sets of 2017 draft instructions include updated penalty amounts for failures to file returns and furnish statements in 2017. The adjusted penalty amount is \$260 per violation, with an annual maximum of \$3,218,500 (up from a maximum of \$3,193,000, for 2016).
- > **Code Series 2 (Section 4980H Safe Harbor Codes and Other Relief).** The 2017 draft instructions for Forms 1094-C and 1095-C clarify that there is no specific code to enter on line 16 to indicate that a full-time employee who was offered coverage either did not enroll or waived the coverage.
- > **Corrected Forms 1095-C.** The 2017 draft instructions for Forms 1094-C and 1095-C include additional information for employers that have errors on Forms 1095-C. Specifically, the draft instructions indicate that Forms 1095-C filed with incorrect dollar amounts on line 15, Employee Required Contribution, may fall under a safe harbor for certain de minimis errors. The safe harbor generally applies if no single amount in error differs from the correct amount by more than \$100. If the safe harbor applies, employers will not have to correct Form 1095-C to avoid penalties. However, if the recipient elects for the safe harbor not to apply, the employer may have to issue a corrected Form 1095-C to avoid penalties. For more information, see Notice 2017-9.
- > **Reporting Catastrophic Coverage for 2017.** The 2017 draft instructions for Forms 1094-B and 1095-B clarify that reporting for catastrophic coverage enrolled in through the Exchange remains optional for 2017. It was expected that health insurance issuers and carriers would be required to report this coverage beginning in 2017. However, the instructions clarify that reporting of catastrophic coverage enrolled in through the Exchange will remain optional for coverage in 2017 (filing in 2018).
- > **Formatting Returns Filed with the IRS.** Both sets of 2017 draft instructions clarify that all returns filed with the IRS must be printed in landscape format.

On Aug. 14, 2017, the IRS released another revised version of Form 1095-C that is almost identical to the first draft Form 1095-C released for 2017. However, the revised version of the form clarifies that the “Plan Start Month” box in Part II of Form 1095-C will remain optional for 2017. The draft instructions for Forms 1094-C and 1095-C indicate that this box may be mandatory for the 2018 Form 1095-C.

Keep in mind that the IRS may make additional changes to these forms before releasing final 2017 versions.

ADDITIONAL RESOURCES

The 2016 versions of these forms are currently available on the IRS website:

- > Form [1094-B](#) and Form [1095-B](#) (and related [instructions](#)); and
- > Form [1094-C](#) and Form [1095-C](#) (and related [instructions](#)).

These forms must have been filed with the IRS no later than **Feb. 28, 2017 (March 31, 2017, if filing electronically)**. However, the IRS extended the due date for furnishing individual statements for 2016 an extra 30 days, from Jan. 31, 2017, to March 2, 2017. The IRS does not anticipate extending the filing or furnishing deadlines for 2017 reporting.



According to the IRS, information returns under Sections 6055 and 6056 may continue to be filed after the filing deadline (both on paper and electronically). Employers that missed the filing deadline should continue to make efforts to file their returns as soon as possible.

The IRS also previously released:

- > [Q&As on Section 6055](#) and [Q&As on Section 6056](#); and
- > A separate set of [Q&As on Employer Reporting using Form 1094-C and Form 1095-C](#).

MORE INFORMATION

Please contact MJ Insurance, Inc. for more information on reporting under Code Sections 6055 and 6056.

This ACA Compliance Bulletin is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

