# *IRS issues final instructions and forms 1094-C and 1095-C for 2016 ACA reporting*

*October 28, 2016*

## *In brief*

Under the Affordable Care Act (ACA), Applicable Large Employer (ALE) members must either provide health care coverage to full-time employees or pay a penalty, and ALE members are required to report to the IRS and full-time employees whether they provided such coverage. In addition, self-funded employers must inform all individuals covered under the plan of their coverage so that the individual has proof that the person met the ACA individual mandate. Each ALE member reports to the IRS using Form 1094-C and to individuals using Form 1095-C. The 2016 final forms and instructions are largely unchanged from the 2015 versions, but there are some changes that could impact data collection and reporting.

## *In detail*

Under the ACA, an employer with 50 or more full-time employees and full-time equivalent employees in its controlled group is considered an ALE. Each ALE member within the controlled group must either offer affordable, minimum value health coverage or pay a penalty. In addition, each ALE member must report to the IRS whether it met these requirements and provide information about individuals enrolled in health coverage. An ALE member also must report offers of coverage to full-time employees, and, for self-funded employers, information about actual coverage to each person who is covered under the plan so that the person has proof of coverage for purposes of the ACA individual mandate.

2015 was the first year of this reporting, and, because of the complexity, the IRS delayed the reporting deadlines and provided certain transition safe harbors. One of the most significant transition safe harbors was that if an employer made a good faith effort to report, and reported in a timely fashion, the IRS would not impose reporting penalties for errors or omissions.

### *General*

*Due date.* As noted above, the 2015 reporting deadlines were delayed. The IRS indicated that the 2016 reporting will not be delayed, and ALEs should be prepared to provide the Forms 1095-C to individuals by January 31, 2017 and Forms 1095-C and 1094-C to the IRS by March 31, 2017 (if filing electronically).

*Good faith.* The good faith safe harbor will not apply for the 2016 reporting year.

### *Form 1094-C*

*Authoritative transmittal (Part I).* The Authoritative Transmittal is the 1094-C that reports aggregate employer-level data for the ALE Member. The 2016 instructions provide additional examples of how to file an authoritative transmittal for ALEs filing multiple Forms 1094-C. In addition, the instructions clarify that each ALE member must file its own

Forms 1094-C under its own separate EIN, even if it is part of an Aggregated ALE Group.

***Observation***

*Unlike other IRS reporting, there is no aggregated filing for all ALE members within a controlled group. For example, for an Aggregated ALE Group consisting of six companies, where each ALE member has its own common law employees and EIN, each ALE member must file its own authoritative transmittal. If one of the companies files several 1094-Cs, for example because it has two benefits administrators, one of the 1094-C Forms must be the authoritative transmittal for that ALE member.*

*1094-C contact information (Part I).* The 2016 instructions point out that the contact information on the Form 1094-C may be different than that on the Form 1095-C, noting that the name and phone number of the 1094-C contact is the person responsible for answering questions from the IRS about the 1094-C filing.

*Transition relief (Part II).* Because 2015 was the first reporting year, the IRS provided significant transition relief. Under the 4980H transition relief, an ALE with more than 100 employees only needed to cover 70% of full-time employees (rather than 95%) to avoid a penalty. For an ALE with less than 100 employees, although the ALE was required to file with the IRS, no shared responsibility penalty would apply. For 2016, the 4980H transition relief will only apply to employers with non-calendar year plans meeting other conditions for this relief, and only for the calendar months in 2016 that fall within the 2015 plan year.

*Full-time employee count (Part III, Column (b)).* The instructions clarify that if an employee terminates during the employee's stability period, the employee only is counted as a full-time employee for the months of actual employment.

*One Form 1095-C for each (full-time) employee.* The 2016 instruction provide a clarifying example of which employer should provide a Form 1095-C for an employee who works for different ALE members within the controlled group.

*Consent to furnish the statement electronically.* Generally, an individual must affirmatively consent to receiving the Form 1095-C electronically. The 2016 instructions state that the consent must specifically relate to receiving the Form 1095-C electronically. However, negative consent may be used for furnishing statements under an expatriate health plan.

***Observation***

*ALEs should review their procedures for obtaining affirmative consent to receive the Form 1095-C electronically to make sure that the consent specifically relates to the Form 1095-C. For example, consent to receive a Form W-2 electronically would not be enough to receive the Form 1095-C electronically.*

*Plan start month (Part II).* For 2016, the plan start month (which is the first month of the plan year) is optional, and the IRS stated that it likely will be mandatory for 2017.

*Multiemployer relief.* The instructions provide that the multiemployer plan relief continues unchanged for 2016.

***Indicator codes for employee offer of coverage (Line 14)***

*General.* The instructions clarify that line 14 cannot be left blank for any month, including any month in which an individual is not an employee.

*Conditional offer of spousal coverage*. The 2016 instructions include two new indicator codes for conditional offers of spousal coverage. A conditional offer is an offer of coverage that is subject to one or more reasonable objective conditions. According to an example in the instructions, 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 is a conditional offer of coverage. According to the instructions, an ALE may report an offer of conditional coverage as an offer of coverage regardless of whether the spouse meets the condition.

Code 1J is used if there is a conditional offer of coverage to the spouse, but no offer of minimum essential coverage to dependents, and Code 1K is used if the offer of minimum essential coverage also extends to dependents. A conditional offer of coverage to a dependent may only be reported as an offer of coverage if the ALE knows that the condition is met. According to the instructions, an ALE must use the conditional offer of coverage code rather than the general offer of coverage code to the employee, spouse and dependents (1E).

***Observation***

*Employers with conditional offers of coverage may need to reprogram systems to generate the correct code for line 14. Conditional offers of coverage may impact the spouse's eligibility to receive a premium tax credit to buy coverage on an Exchange, and reporting this on the 1095-C will assist the spouse and IRS to understand that eligibility. It is unclear whether charging a surcharge under the ALE's plan for a spouse that is eligible for coverage through the spouse's employment is a* *conditional offer of coverage that should be reported under the new code.*

*COBRA and post-employment coverage.* The instructions contain a unique COBRA example and a clarification for post-employment coverage. In the COBRA example, the employee is offered spousal and dependent coverage, but elects employee only coverage. During the plan year the employee goes from full-time to part-time and is no longer eligible for coverage, but is offered COBRA coverage only for the employee. The instructions state that the employer should enter Code 1E (minimum essential coverage proving minimum value offered to employee and at least minimum essential coverage offered to dependents and spouse) for the months of coverage and 1B (minimum essential coverage providing minimum value offered to employee only) for the remaining months.

***Observation***

*Although the instructions provide this special rule for COBRA coverage, the IRS explained that if an ALE provides an employee an effective opportunity to enroll dependents in the plan at least once a year, the ALE is treated as providing coverage to dependents, regardless of whether the dependents are enrolled.*

Other post-employment coverage should not be reported as an offer of coverage, and instead should be reported on line 14 as 1H (no offer) and line 16 should be 2A, not an employee.

*Code 1G.* The instructions clarify that for line 14 1G should not be used for any individual who was a full-time employee for at least one month in the calendar year, and it only should be used for an employee who was enrolled in coverage and was not a full-time employee for all 12 months. In other words, Code 1G applies for the entire year or not at all.

***Section 4980H safe harbor codes and other relief for ALE Members (Line 16)***

*General.* The instructions specifically state that if no line 16 Code applies, it should be left blank.

*Code 2C.* This Code should not be entered for any month that the employee is enrolled in coverage that is not minimum essential coverage.

## *The Takeaway*

Although there are no significant changes to the 2016 forms or instructions, ALEs should review the changes and clarifications to make sure that they do not need to change any coding or other systems to accommodate the changes.

## *Let's talk*

For more information, please contact our authors:

Amy Bergner, *Washington, DC*
(202) 312-7598
amy.b.bergner@pwc.com

Chantel Sheaks, *Washington, DC*
(202) 375-3138
chantel.sheaks@pwc.com

***or your regional People and Organization professional:***

*US Practice Leader*
Scott Olsen, *New York*
(646) 471-0651
scott.n.olsen@pwc.com

Brant Ferrell, *Atlanta*
(678) 419-7271
brant.ferrell@pwc.com

Craig O'Donnell, *Boston*
(617) 530-5400
craig.odonnell@pwc.com

Jack Abraham, *Chicago*
(312) 298-2164
jack.abraham@pwc.com

Brandon Yerre, *Dallas*
(214) 999-1406
brandon.w.yerre@pwc.com

Todd Hoffman, *Houston*
(713) 356-8440
todd.hoffman@pwc.com

Carrie Duarte, *Los Angeles*
(213) 356-6396
carrie.duarte@pwc.com

Mike Boro, *New York Metro*
(646) 471-0730
michael.boro@pwc.com

Bruce Clouser, *Philadelphia*
(267) 330-3194
bruce.e.clouser@pwc.com

Jim Dell, *San Francisco*
(415) 498-6090
jim.dell@pwc.com

Scott Pollak, *San Jose*
(408) 817-7446
scott.pollack@Saratoga.pwc.com

Nik Shah, *Washington Metro*
(703) 918-1208
nik.shah@pwc.com

**Stay current and connected.** Our timely news insights, periodicals, thought leadership, and webcasts help you anticipate and adapt in today's evolving business environment. Subscribe or manage your subscriptions at:

pwc.com/us/subscriptions