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Employer ACA reporting delay

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IRS delays certain reporting requirements, penalties under Affordable Care Act

First in blogposts and ‘speech guidance’ and then in an official notice, Notice 2013-45, the IRS announced a one-year delay in certain reporting requirements and in the employer mandate under the ACA.

- Makes employer, government and insurer reporting of minimum essential coverage provided to individuals/employees optional for 2014; requirement will apply in 2015 (IRC 6055)
- Makes large employer (50+ employees) reporting of coverage provided to employees optional for 2014; requirement will apply in 2015 (IRC 6056)
- No employer shared responsibility payments will be assessed until 2015 (IRC 4980H)

IRS offers transition relief

- IRC 6055 and 6056 reporting
 - No penalties for 2014
 - Proposed reporting rules expected this summer
 - Employers may voluntarily comply with reporting for 2014 (once guidance is issued)
- Employer shared responsibility penalties/excise taxes (4980H)
 - No penalties for 2014 because enforcement relies on 6056 reporting
 - Voluntary compliance - maintaining or expanding coverage is encouraged

Myths about the delay

- Ø All of ACA is delayed for employers
- Ø Employers can stop doing anything about the employer mandate, recordkeeping and reporting
- Ø Employers need not file returns, pay PCORI fees or pay other fees under ACA
- Ø Employers need not provide notice of exchanges/marketplaces
- Ø Employers are not at risk for any ACA-related penalties until 2015 or later
- Ø The individual mandate is delayed
- Ø Individuals won't be able to get subsidies to buy coverage on exchanges
- Ø No exchanges will be ready for 2014

State of play

Shared responsibility

- Proposed regulations
- Comments
- Hearing
- Transition relief - delay

Reporting under §6055, §6056

- IRS Notices
- Comments
- Transition relief - delay

Affected employers

Employers offering minimum essential coverage

Employers with 50 or more full-time equivalent employees (controlled group basis)

Minimum essential coverage reporting IRC Section 6055

Basic requirements	
Who reports	Insurers, government agencies and self-insured employers providing minimum essential coverage (MEC) to individuals
To Whom	IRS and individuals
When	By January 31 for preceding calendar year, starting with calendar years after 2013 (NOW DELAYED)
How	Not yet specified
What	Name and TIN of every individual with MEC, coverage dates, employer contribution (if any), information about insurer, qualified health plan coverage, and any advance payments of federal subsidies, information for small employer tax credit
Why	Enforcement of individual mandate, enforcement of employer 'A' penalty, reconcile individual federal subsidies

Employer-sponsored coverage reporting IRC Section 6056

Basic requirements	
Who reports	Applicable large employers
To Whom	IRS and individuals shown on the report
When	By January 31 for preceding calendar year, starting with calendar years after 2013 – NOW DELAYED
How	Not yet specified, but statute directs coordination and IRS has stated aim to streamline
What	Employer identifying information, certification of MEC offer to FT employees, if MEC offered: length of waiting period, months coverage available, monthly premium of lowest cost option, employer share of costs, total FT employee count, identifying information and coverage months of every individual with MEC, dates of coverage
Why	Enforcement of employer shared responsibility, reconciliation of individual federal subsidies

Streamlining the reporting



6055 Reporting

- **Name and SSN of every person with MEC**
- **Coverage dates**
- Employer contribution
- Insurance information



6056 Reporting

- **Name and Identifying information of every person with MEC**
- **Coverage dates**
- Length of waiting period, months coverage available, monthly premium of lowest cost option, employer share of costs, total FT employee count, etc.



Content of the minimum essential coverage reporting*

Item	Source of data	Comments
Name and SSN of every individual with MEC	Payroll, HRIS, Benefit administrator, insurer (if any)	<ul style="list-style-type: none"> Reporting for family coverage No SSN for many dependents
Coverage dates during calendar year	HRIS, Benefit administrator, insurer (if any)	<ul style="list-style-type: none"> Will month by month reporting be required if individuals have coverage for entire year? May be difficult for fiscal year plan IRS requested comments on how to determine when coverage begins and ends
Employer premium contribution	Benefit administrator, HRIS	
Is coverage offered under an exchange qualified health plan?	Unknown	
Information about employer sponsor of insured plan	Insurer	May not be at controlled group level
Amount of premium tax credit applied to premium	Insurer?	
Other information as the Secretary may require		<ul style="list-style-type: none"> Employer identifying information for multiple members of a controlled group; Who reports when MEC provided through a VEBA or Taft-Hartley fund?

*Chart is for illustrative purposes only

Content of large employer reporting – by month*

Item	Source of data	Comments
Employer identifying information	Employer	<ul style="list-style-type: none"> Rules apply on controlled group basis but liability and penalties apply on “Member” basis; common law employer may not be reporting W-2 or offering coverage Separate returns for each individual, or single employer return?
Certification of offer of MEC to full-time employees	Uncertain who can make certification	<ul style="list-style-type: none"> Employee by employee reporting Fiscal year plans
Waiting periods	Benefit administrator, in-house	
Months when coverage was available	Benefit administrator, HRIS	Will there need to be month by month reporting if coverage was available for entire year?
Monthly premium of the lowest cost option	Benefit administrator, in-house	Fiscal year plans?
Employer share of cost	Benefit administrator	
Number of full-time employees during the month	Workforce management, payroll	May be multiple systems with data aggregation needed
List of each full-time employee during the month and whether the employee (and dependents) had MEC	HRIS, Payroll, Benefit administrator	<ul style="list-style-type: none"> Based on actual hours worked or “safe harbor” measurement/stability period? Many employers do not retain hours data on terminated workers who may be rehired
Whether employer’s plan met minimum value standard	Benefit administrator, in-house	

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Discussion....

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