

Morgan Lewis

together

Affordable Care Act Tasks: Shared Responsibility Reporting

Presenters:

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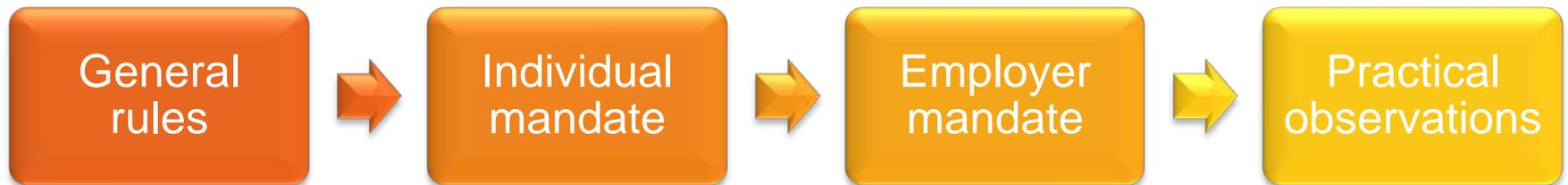
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Today's Material

- Our assumptions for today:
 - Calendar-year plan
 - “Play” decision
 - True MV plan/affordable coverage
 - 12-month initial measurement for new variable/part-time/seasonal employees
 - 12-month ongoing measurement period calculated in the middle of each October

Today's Material

Reporting



General Rules

General Rules

- Objective:
 - Information for Exchange participants to help with individual mandate and Exchange subsidy determinations
 - *Form 1095-A = Code section 6055*
 - *Key to whether subsidy recipient owes \$ April 15*
 - *Should be available now*
 - Help participants prove 2015 compliance with individual mandate
 - *Form 1095-B + transmittal form 1094-B = Code section 6055*

General Rules

- Show employer satisfies employer mandate, avoids 2015 Shared Responsibility excise tax, and helps participants prove 2015 compliance with individual mandate
 - *Form 1095-C + transmittal form 1094-C = Code section 6056*
 - Additional objective: Exchange subsidy determinations
 - *Self-insured employers combine both individual mandate and employer mandate objectives on Form 1095-C—generally!*
 - Self-insured employers still use Form 1095-B for individuals receiving coverage but who were not, for the full calendar year, employees
 - » Retirees
 - » COBRA(?)

General Rules

- *Significant additional information on 1094-C*
 - Much more than a mere transmittal
 - » Source of detailed information about:
 - » Total employee count
 - » Controlled group
 - » Qualifying offers
 - » Transition relief
 - » Other applicable Large Employer Members
 - » Including demographic data to be able to place in descending order by size
 - » Basically, the broader additional information necessary to determine employer mandate compliance

General Rules

– Sources:

- *Final regulations issued March 2014*
- *Forms, instructions, Q&As available—but significant questions still remain—software filing guide to come*

– See:

- » <http://www.irs.gov/uac/Questions-and-Answers-on-Information-Reporting-by-Health-Coverage-Providers-Section-6055> (updated 12.2014)
- » <http://www.irs.gov/uac/Questions-and-Answers-on-Reporting-of-Offers-of-Health-Insurance-Coverage-by-Employers-Section-6056> (updated 12.2014)

General Rules

- First applies to 2015; first reported 1.31.2016
 - Voluntary for 2014; Forms for 2014
 - *Anticipate that Forms won't change for 2015; instructions may be modified/revised*
- Applies to insurers, plan sponsors for group health plans
 - Sponsors are the employer (single ER plan); each employer (MEWA); trustees (multiemployer plan)
 - Applies separately to each controlled group member (in order to individually determine Shared Responsibility compliance)

General Rules

- Requires name, address, TIN of responsible individual AND covered dependents
 - 3 part process to request TIN before can use DOB
 - *Highly detailed process and requirements drawn from backup withholding rules*
 - May truncate TINs on version sent to responsible individual (but not to IRS)
- Requires coverage by month

General Rules

- Filed on calendar year basis—even for non-calendar year plans (special rule for months in 2015 before non-calendar year employers are subject to Shared Responsibility)
- Must file electronically with IRS if file 250+ of each return
- Can send electronically to responsible individual
 - Significant burdens—not very useful or practical
- Transmittal forms for 1095-B and 1095-C
- Penalties for noncompliance—good faith for 2015
- Borrows some, but not all, Form W-2 processes

Individual Mandate

Individual Mandate

- Conveys receipt of minimum essential coverage
 - Employer sponsored plans
- IRS Publication 5187 Health Care Law: What's New for Individuals and Families
 - All U.S. taxpayers and their dependents unless exempt
 - *Form 8965 Health Coverage Exemptions*
 - Form 1040, Line 61

Individual Mandate

- Form 1095-A for Exchange coverage
 - Finalized 12.15.2014
 - Form 8962 Premium Tax Credit reconciliation
- Form 1095-B for insured coverage; certain other self-insured coverage that is not subject to the employer mandate (retired employees + COBRA in year 2 and beyond, etc.); and multiemployer coverage
- Form 1095-C for self-insured coverage that is subject to the employer mandate
 - Confusing; IRS thinks this is more efficient—but Form 1095-C is merely a mash-up and in no way streamlined

Individual Mandate

- In addition to general requirements, reports MEC by month for enrollees
 - No reporting if not covered for any month in year
 - Covered for one day = covered for entire month
- Reasonable effort to obtain covered individual TIN (SSN) before DOB may be used
 - Three attempts
 - *Two in Year 1 (enrollment, prior to December 31)*
 - *Once in Year 2 (by December 31 of following year)*

Individual Mandate

Health Coverage

560115
OMB No. 1545-2252
2014

Form **1095-B**
Department of the Treasury
Internal Revenue Service

▶ Information about Form 1095-B and its separate instructions is at www.irs.gov/form1095b.

VOID
 CORRECTED

Part I Responsible Individual (Policy Holder)

1 Name of responsible individual
2 Social security number (SSN)
3 Date of birth (if SSN is not available)
4 Street address (including apartment no.)
5 City or town
6 State or province
7 Country and ZIP or foreign postal code
8 Enter letter identifying Origin of the Policy (see instructions for codes):
9 Small Business Health Options Program (SHOP) Marketplace identifier, if applicable

Part II Employer Sponsored Coverage (If Line 8 is A or B, complete this part.)

10 Employer name
11 Employer identification number (EIN)
12 Street address (including room or suite no.)
13 City or town
14 State or province
15 Country and ZIP or foreign postal code

Part III Issuer or Other Coverage Provider

16 Name
17 Employer identification number (EIN)
18 Contact telephone number
19 Street address (including room or suite no.)
20 City or town
21 State or province
22 Country and ZIP or foreign postal code

Part IV Covered Individuals (Enter the information for each covered individual(s).)

(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 months	(e) Months of coverage												
				Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
23			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 60704B Form **1095-B** (2014)

Individual Mandate

DRAFT AS OF October 15, 2014 DO NOT FILE

Form **1095-C** **Employer-Provided Health Insurance Offer and Coverage** VOID 600115
 CORRECTED OMB No. 1545-2251
2014

Department of the Treasury
Internal Revenue Service
▶ Information about Form 1095-C and its separate instructions is at www.irs.gov/1095c.

Part I Employee **Applicable Large Employer Member (Employer)**

1 Name of employee		2 Social security number (SSN)		7 Name of employer				8 Employer identification number (EIN)			
3 Street address (including apartment no.)				9 Street address (including room or suite no.)				10 Contact telephone number			
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code	

Part II Employee Offer and Coverage

14 Offer of Coverage (enter required code)	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
	15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)													

Part III Covered Individuals
If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 60705M Form 1095-C (2014)

Employer Mandate

Employer Mandate

- MUCH more complicated—and not just due to combined individual mandate and employer mandate data elements for self-insured employers
- Only applies to employers subject to Shared Responsibility rules
 - *2015 partial reprieve if under 100*
- Only applies to ACA FT employees
- Completed separately for each controlled group member
 - *Special 3rd party rules*
 - *Only one form per employee*

Employer Mandate

- Special multiemployer plan rules
- Additional data includes:
 - Contact person
 - Offer of coverage by month
 - Lowest-cost premium for self-only coverage
 - ACA FT employee totals by month
 - Waiting periods

Employer Mandate

- Controlled group data
- Multiemployer data
- Codes reflecting:
 - *Scope of offer (employee/dependents/spouse)*
 - *Reasons coverage not offered*
 - *Offers to individuals who are not ACA FT employees*
 - *Affordability*

Employer Mandate

- Transmittal Form 1094-C requires additional data
- Alternate methods/simplified reporting
 - Generally useless for many employers

Employer Mandate

DRAFT AS OF October 15, 2014 DO NOT FILE

Form **1095-C** **Employer-Provided Health Insurance Offer and Coverage** VOID 600115
 CORRECTED OMB No. 1545-2251
2014

Department of the Treasury
Internal Revenue Service
▶ Information about Form 1095-C and its separate instructions is at www.irs.gov/1095c.

Part I Employee **Applicable Large Employer Member (Employer)**

1 Name of employee		2 Social security number (SSN)		7 Name of employer				8 Employer identification number (EIN)			
3 Street address (including apartment no.)				9 Street address (including room or suite no.)				10 Contact telephone number			
4 City or town		5 State or province		6 Country and ZIP or foreign postal code		11 City or town		12 State or province		13 Country and ZIP or foreign postal code	

Part II Employee Offer and Coverage

14 Offer of Coverage (enter required code)	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
	15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)													

Part III Covered Individuals
If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
				Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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22			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 60705M Form **1095-C** (2014)

Employer Mandate

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Part IV Other ALE Members of Aggregated ALE Group
Enter the names and EINs of Other ALE Members of the Aggregated ALE Group.

36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	Name	38 (a) Minimum Essential Coverage Offer Indicator		39 (b) Full-Time Employee Count for ALE Member	40 (c) Total Employee Count for ALE Member	41 (d) Aggregated Group Indicator	42 (e) Section 4980H Transition Relief Indicator
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>				
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>				
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>				
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>				
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>				
28	May	<input type="checkbox"/>	<input type="checkbox"/>				
29	June	<input type="checkbox"/>	<input type="checkbox"/>				
30	July	<input type="checkbox"/>	<input type="checkbox"/>				
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>				
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>				
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>				
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>				
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>				

Form 1094-C (2014) 120215
Page 2

Part III ALE Member Information—Monthly

36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	Name	38 (a) Minimum Essential Coverage Offer Indicator		39 (b) Full-Time Employee Count for ALE Member	40 (c) Total Employee Count for ALE Member	41 (d) Aggregated Group Indicator	42 (e) Section 4980H Transition Relief Indicator
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>				
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>				
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>				
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>				
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>				
28	May	<input type="checkbox"/>	<input type="checkbox"/>				
29	June	<input type="checkbox"/>	<input type="checkbox"/>				
30	July	<input type="checkbox"/>	<input type="checkbox"/>				
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>				
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>				
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>				
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>				
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>				

Form 1094-C Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns CORRECTED 120115
OMB No. 1545-2251
2014

Department of the Treasury
Internal Revenue Service

► Information about Form 1094-C and its separate instructions is at www.irs.gov/1094c.

Part I Applicable Large Employer Member (ALE Member)

1 Name of ALE Member (Employer) _____ 2 Employer identification number (EIN) _____

3 Street address (including room or suite no.) _____

4 City or town _____ 5 State or province _____ 6 Country and ZIP or foreign postal code _____

7 Name of person to contact _____ 8 Contact telephone number _____

9 Name of Designated Government Entity (only if applicable) _____ 10 Employer identification number (EIN) _____

11 Street address (including room or suite no.) _____

12 City or town _____ 13 State or province _____ 14 Country and ZIP or foreign postal code _____

15 Name of person to contact _____ 16 Contact telephone number _____

For Official Use Only

17 Reserved _____

18 Total number of Forms 1095-C submitted with this transmittal _____ ►

Part II ALE Member Information

19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions _____

20 Total number of Forms 1095-C filed by and/or on behalf of ALE Member _____ ►

21 Is ALE Member a member of an Aggregated ALE Group? _____ Yes No
If "No," do not complete Part IV.

22 Certifications of Eligibility (select all that apply):

A. Qualifying Offer Method B. Qualifying Offer Method Transition Relief C. Section 4980H Transition Relief D. 98% Offer Method

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature _____ Title _____ Date _____

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 61571A Form 1094-C (2014)

Practical Observations

Practical Observations

- Determine if you, insurer or multiemployer bears the burden of the individual mandate—or if the burden is shared
- Determine which vendor can help (payroll/HRIS/TPA/combo or new vendor) with the employer mandate
- Start saving data or ensuring that it can be accessed later in 2015
 - Don't allow enrollment without TIN!

Practical Observations

- MUST determine who is, and is not, and ACA full-time employee
 - Critical for correctly filling out employer mandate form and avoiding unintended Shared Responsibility consequences and errors
- Must understand both scope of controlled group (Form 1094-C, Part IV) and internal EIN subsets (as each EIN files a SEPARATE Form 1095-C)
 - Single EIN may file multiple transmittals by division
- Don't bank on a further delay

Questions?

Contact Information

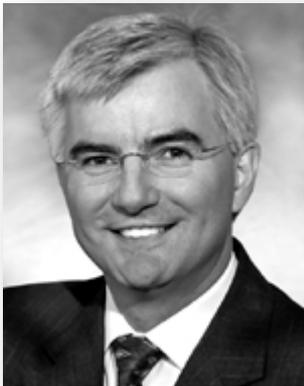
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