

Wednesday's News You Can Use

Affordable Care Act (ACA) Information Reporting Return Requirements

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Learning Objectives

Upon successful completion of this session, you should be able to:

- Recall IRS employer information return reporting requirements
- Identify what information is reported on forms 1094 and 1095 and the purpose of the information
- Recite planning considerations for compliance with the law

“PLAY or PAY” REFRESHER



EMPLOYER SHARED RESPONSIBILITY RULES

Background

“A Penalty”

An “applicable large employer” (ALE) that fails to offer minimum essential coverage (“MEC”) to full-time (FT) employees and their children (to age 26) may be subject to a penalty if a FT employee enrolls in Marketplace coverage and receives a premium tax credit (aka “subsidy”) for the coverage under IRC section 4980H(a).

“B Penalty”

An employer that offers MEC to its FT employees and their children (to age 26) may be subject to a penalty under IRC section 4980H(b) if a FT employee receives a subsidy for Marketplace coverage due to the employer’s failure to offer group coverage that is affordable and provides minimum value.

An employer may choose to comply (“play”) with the employer shared responsibility mandate in order to avoid the possibility of “paying” a penalty, which can be substantial

EMPLOYER SHARED RESPONSIBILITY RULES

- **Who is an Applicable Large Employer (ALE)?**
 - ALE is employer with 100 or more FT and full-time equivalent employees (FTEs) starting in 2015
 - ALE is employer with 50-99 FTEs starting in 2016
- ALE determination made on a control group basis and based on prior year employee count
 - Liability for, and the amount of, the excise tax is computed and assessed separately for each ALE member
 - Each ALE member is responsible for health coverage reporting
- BUT: ALEs exempt from play or pay (e.g., 50-99 FTEs) in 2015 must still report 2015 coverage – no delay. *And*, all self-funded plans have reporting obligations, regardless of number of FTEs

EMPLOYER SHARED RESPONSIBILITY RULES

What is affordable coverage?

- Employee's premium contribution may not exceed 9.5% of household income – use IRS safe harbors
- Applies to employee-only coverage – employer does not have to contribute towards dependent costs

What is minimum value?

- Plan pays at least 60 percent of total allowable costs
- No more than 40% paid by participants: co-pays, deductibles, co-insurance
- Carrier's Summary of Coverage and Benefits (SBC) states whether plan provides minimum value

SAFE HARBOR- AFFORDABILITY

- 9.5% of annual earnings in W-2 (Box 1) divided by 12 months; or
- If salaried, 9.5% of employee's monthly salary. If hourly, 9.5% of 130 hours x rate of pay; or
- 9.5% of individual federal poverty level (FPL) (\$11,770 in 2015) divided by 12 months = (employee contribution cannot exceed \$93.17 per month)

EMPLOYER SHARED RESPONSIBILITY RULES

“Penalty A”: ALE does not offer minimum essential coverage

- A non-tax deductible penalty will apply if the employer does not offer MEC (generally, any kind of group health coverage that is not “excepted benefits”) to at least the following percentage of its FT employees (and their children to age 26)
 - 70% in 2015
 - 95%, or, if greater, 5 FT employees starting in 2016 and later
- Penalty is triggered as soon as one FT employee receives a subsidy (or cost-sharing reduction) for Marketplace coverage
 - 400% of federal poverty level or lower
- \$2,000 annual penalty per FT employee in excess of 30 FT employees (determined monthly = \$167/mo)
 - 2015: transition relief excludes 80 FT employees

EMPLOYER SHARED RESPONSIBILITY RULES

“Penalty B”: ALE fails to offer plan with minimum value or offers qualified plan that is unaffordable

- Applicable large employers may be subject to non-deductible tax penalty if employer does not offer minimum value at an affordable price to a FT employee
- Penalty is triggered as soon as **one** FT employee receives subsidized health insurance coverage through the Marketplace
- \$3,000 annual penalty (\$250/mo) per FT employee receiving a subsidy for Marketplace coverage, not to exceed the total A penalty due if didn't offer MEC

EMPLOYER SHARED RESPONSIBILITY RULES

Who is a “Full-time” employee?

- Full-time employee means an employee who has 30 or more hours of service per week (130 per month):
 - Common law standard; includes all W-2 employees (full-time, part-time, seasonal, temporary, etc.)
 - Includes salary, hourly, per diem, or commission only employees
 - Does not include a sole proprietor, a partner in a partnership, or a 2% S corporation shareholder
 - Does not include leased employees who are not common law employees of the employer that receives the services

EMPLOYER SHARED RESPONSIBILITY RULES

What is “hours of service”?

- Hours of service include:
 - each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer, and
 - each hour an employee is paid, or entitled to payment, on account of a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence

EMPLOYER HEALTH COVERAGE REPORTING



EMPLOYER HEALTH COVERAGE REPORTING

- **Which employers must report?**

- IRC section 6055 requires all employers offering Minimum Essential Coverage under a self-funded plan to report for purposes of enforcing the “individual mandate”
- IRC section 6056 requires all Applicable Large Employers to report
 - Employers with 50-99 FTEs that satisfy the transition relief criteria to delay employer shared responsibility until 2016 must still report for 2015
 - Section 6056 assists in enforcing the employer shared responsibility rules and determining who may be eligible for subsidized coverage through a Public Marketplace

NOTE: Small employers (<50 FTEs) offering no coverage or only insured coverage are exempt from reporting

6055/6056 Reporting Overview

Type of Reporting	Affected Employers	Required Information	Form
Code 6056 – Applicable Large Employer (ALE) reporting	<p>ALEs (at least 50 FTEs)</p> <ul style="list-style-type: none"> ▪ Insured Plan: ALE member files Form 1095-C, Parts I and Parts II (and not Part III). Insurer files Form 1095-B ▪ Self-funded Plan: ALE member files Form 1095-C, Parts I, II and III 	<p>Terms and conditions of health plan coverage offered to FT employees (helps the IRS administer the ACA's shared responsibility penalty for large employers)</p>	<ul style="list-style-type: none"> ▪ To IRS: Form 1094-C (transmittal) and 1095-C due 2/28 (3/31 if filed electronically) ▪ To responsible individual: Informational statements (e.g., Form 1095-C) due 1/31 ▪ See "Additional Resources" at end of presentation for links to online forms.
Code 6055 – Reporting of health coverage by providers of minimum essential coverage	<ul style="list-style-type: none"> ▪ Small employers with self-funded health plans ▪ Multi-employer plan sponsors ▪ Health Insurers ▪ Note: ALEs that sponsor self-funded plans are also responsible for 6055 reporting. However, this reporting is done in Part III of the Form 1095-C. 	<p>Information on each individual provided with coverage (helps the IRS administer the ACA's Individual mandate)</p>	<ul style="list-style-type: none"> ▪ To IRS: Form 1094-B (transmittal) and 1095-B due 2/28 (3/31 if filed electronically) ▪ To responsible individual: Informational statements (e.g., Form 1095-B) due 1/31 ▪ See "Additional Resources" at end of presentation for links to online forms.

What is Purpose of Reporting?

- Key component of ACA because will verify individual and employer compliance:
 - Verifies compliance with individual mandate or whether a tax penalty is owed by individual to IRS
 - Verifies compliance with employer shared responsibility rules and whether ACA shared responsibility penalties are owed by employer to IRS
 - (A and B penalties)
 - Determines who may be eligible for subsidized coverage through a Public Marketplace

How & When to File B and C Forms with IRS

- The 1094 transmittal and the 1095 returns must be filed with the IRS on or before February 28 (March 31 if filed electronically) of the year following the reporting year
- If you are required to file 250 or more Forms 1095-B, or 250 or more Forms 1095-C during a calendar year, you must file the returns with the IRS electronically

Statements to Individuals

- Must furnish a copy of the 1095 B or C forms (or a “substitute statement”) to the person identified as the “Responsible Individual” named on the form by January 31 of the following year
 - First statements due to employees on February 1, 2016
 - **Annual timeframes for reporting same as for W-2s**
- Statements must be furnished on paper by mail, unless the recipient affirmatively consents to receive the specific form in electronic format
 - If mailed, send to the recipient’s last known address
 - A statement may be electronically provided if
 - individual affirmatively consents to such disclosure in a manner that demonstrates ability to access the electronic statement after receipt of a specific disclosure,
 - consent may be later withdrawn; and
 - if there is a later change to the hardware or software required to access the document, new electronic consent is obtained

EMPLOYER HEALTH COVERAGE REPORTING

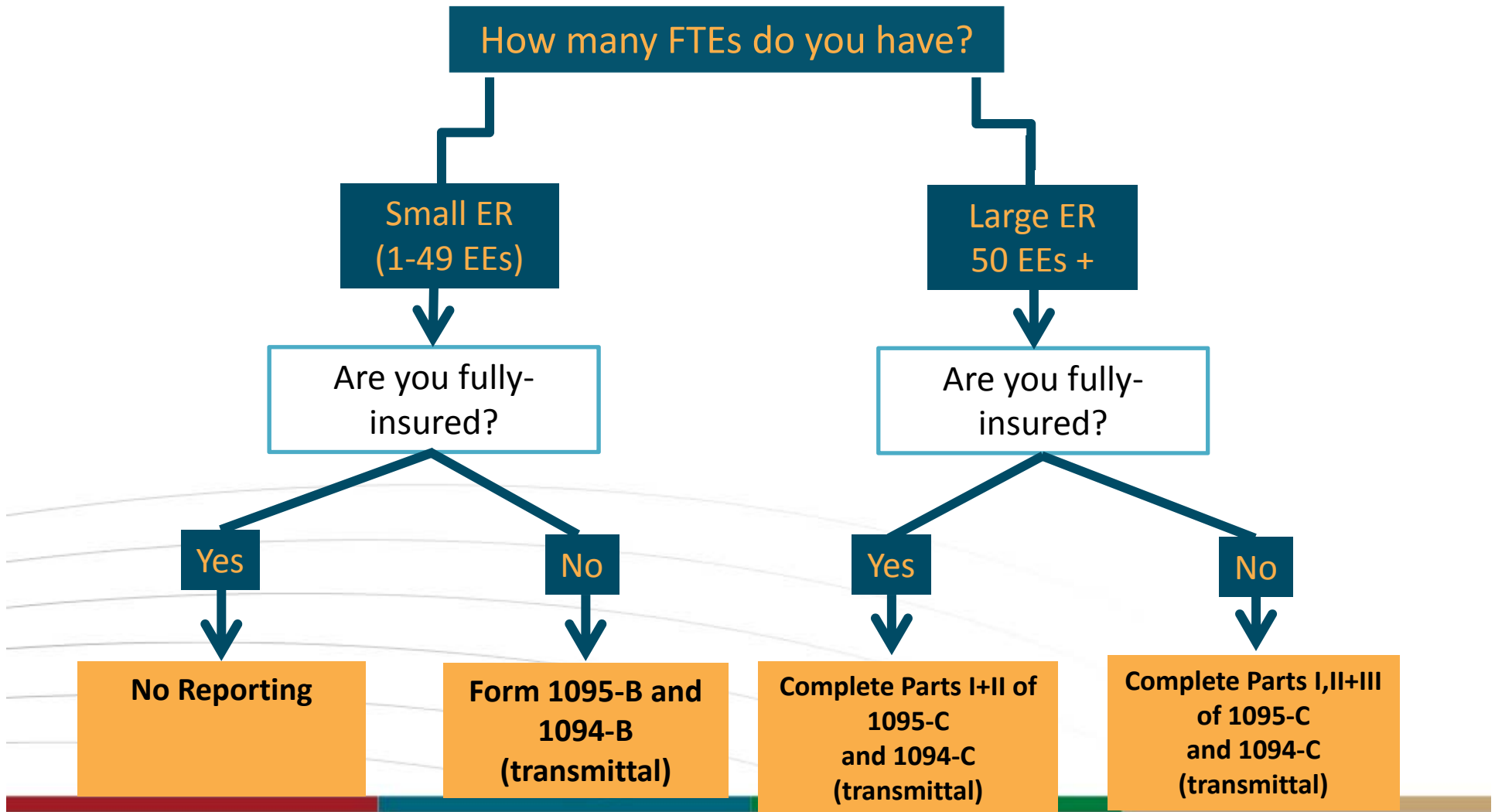
- **IRS Form 1094**
 - Used to report employer summary information to the IRS
 - Think of it as a cover sheet for the individual employee forms
- **IRS Form 1095**
 - Used to report employee-specific information
 - In general, one is required for:
 - Each full-time employee; and
 - Each covered employee under a self-funded plan
- Both forms are filed with the IRS and a copy of Form 1095 is provided to each full-time and/or covered employee

Which Forms Do I Use?!?!

Applicable Large Employer (ALE)

- Insured Plan – Applicable Large Employer files Forms 1094-C & 1095-C Parts I and Parts II (NOT Part III). Insurer files 1094-B & 1095-B
- Self-Insured Plan – Applicable Large Employer files Form 1094-C & 1095-C, Parts I, II and III
- Small employers not subject to the employer shared responsibility rules that sponsor self-insured plans will use Forms 1094-B & 1095-B
- Multi-employer plan will use Forms 1094-B & 1095-B
- Small, fully-insured plans do not file since insurer files 1094-B & 1095-B

6055/6056 Reporting for Employers



Potential Penalties for Reporting Failures

- **Failure to file information return:** \$250 per return, (increased from \$100), \$3,000,000 maximum per calendar year (increased from \$1.5 million)
- **Failure to provide correct employee statement:** \$100 for each statement (increased from \$60), \$1,500,000 maximum per calendar year (increased from \$500,000).
- **Intentional disregard:** \$500 for each return (increased from \$250), with no annual maximum.
- **Short-term relief for 2015:** IRS states no penalties for 2015 returns and statements filed and furnished in 2016 if can show good faith efforts to comply with the reporting requirements (specifically, regarding incorrect or incomplete information on return or employee statement)
- **No relief** is provided for reporting entities that cannot show a good faith effort to comply with the reporting requirements or that fail to timely file an information return or furnish a statement to individuals
- Increased by Trade Preferences Extension Act

Employer Health Coverage Reporting

Information required - all ALEs

- Status as a single employer or member of a controlled group/affiliated service group and identifying information
- Total employees for each month
- Total full-time employees (30/week OR 130/month) for each month
- For each full-time employee:
 - Name, Social Security Number (SSN), address
 - Which months coverage was offered
 - Employee contribution amount for lowest cost single coverage option offered

Employer Health Coverage Reporting

Information required – all employers with self-funded coverage (regardless of size)

IRC Section 6055 – Reporting on Part III of Form 1095-C

- For all covered individuals (employee and dependents):
 - Name
 - *SSN (or date of birth if SSN is not available)*
 - Coverage for each calendar month (Y or N)
 - Individual is considered to have coverage for the month if covered any day during the month

Reporting SSNs – Reasonable Effort Requirement

- If reporting entity is unable to obtain a SSN after making a reasonable effort to do so, the covered individual's date of birth may be reported in lieu of a SSN
- Reasonable Effort
 - Initial request for SSN at the time of enrollment
 - If no SSN received, first annual solicitation is required by December 31 of the year coverage begins
 - If still no SSN received, second annual solicitation is required by December 31 of the following year
 - If still no SSN is received, need not continue to solicit the SSN

FORM 1094-C

Form **1094-C**

Department of the Treasury
Internal Revenue Service

Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns

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

CORRECTED

120115
OMB No. 1545-2251

2014

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)



FORM 1095-C

Form 1095-C
Department of the Treasury
Internal Revenue Service

Employer-Provided Health Insurance Offer and Coverage

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

VOID
 CORRECTED

600115
OMB No. 1545-2251
2014

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													
	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
14 Offer of Coverage (enter required code)													
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"/>



NEXT STEPS FOR EMPLOYERS



Next Steps for Employers

- Start preparing now!
- Involve/educate key stakeholders
 - HR, HRIS administrator, payroll, finance, business/operations, elected officials, third party vendors
- Designate project manager
- Review current systems capabilities
- Identify, evaluate, select, and coordinate with HRIS administrator, payroll vendors, tax advisors or other vendors to support the reporting efforts (if needed/preferred)
- Budget for systems upgrades or new solutions
- Start collecting data by month starting in 2015
- Identify solutions for collecting data and completing the reports

Next Steps for Employers

- Be prepared to report certain information to avoid potential play or pay penalties, for example:
 - Transition relief for non-calendar plans, limited non-assessment periods, safe harbors for determining coverage affordability
- Start collecting SSNs for all covered individuals now
 - Require SSNs for all individuals at time of enrollment. If elections roll over, establish a method to collect the information
 - Determine how to obtain missing SSNs
- Establish procedures for filing form(s) with IRS and method of providing statements to employees. If distributing electronically, follow the consent rules
- If you are part of an ALE group, carefully review the ALE group reporting rules
- Stay tuned for final 2015 forms and instructions - and potential changes

Additional Resources

- Final instructions for Forms 1094-C and 1095-C: <http://www.irs.gov/pub/irs-pdf/i109495c.pdf>
- Final 2014 Form 1094-C: <http://www.irs.gov/pub/irs-pdf/f1094c.pdf>
- Final 2014 Form 1095-C: <http://www.irs.gov/pub/irs-pdf/f1095c.pdf>
- IRS reporting brochure <http://www.irs.gov/pub/irs-pdf/p5196.pdf>
- EPIC Compliance Alert, *IRS Releases Final Forms and Instructions for Health Coverage Reporting* available at http://cdn.sparkart.net/edgewoodins/content/pdfs/ComplianceAlert_IRSR_releasesFinalFormsandInstructionsforHealthCoverageReporting_mms022515.pdf
- EPIC ACA compliance articles and webinars posted on the EPIC website at <http://www.epicbrokers.com/employee-benefits>

ACA Information Reporting Return Requirements



Questions?

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