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THE ADVISOR

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Applicable Large Employer Information Reporting (Section 6056)

Internal Revenue Code Section 6056 requires [applicable large employers](#) (ALEs) to report information about their compliance with the employer shared responsibility (pay or play) provisions and to furnish related statements to their employees to help employees determine whether, for each month of the calendar year, they can claim a premium tax credit on their tax returns.

An ALE is an employer that employed an average of **at least 50 full-time employees** (including full-time equivalents or FTEs) on business days during the preceding calendar year. Thus, employers that employed **fewer than 50 full-time employees** (including FTEs) during the prior year are **not** subject to the reporting requirements. (However, any employer that sponsors a self-insured health plan is required to report [under Section 6055](#), even if the employer has fewer than 50 full-time employees.)

Companies that have a common owner or are otherwise related generally are combined and treated as a single employer, and so would be combined for purposes of determining whether or not they collectively employ at least 50 full-time employees (including FTEs). If two or more related companies together constitute an ALE for purposes of these rules, **each** employer member must file an information return with the IRS and furnish a statement to its full-time employees, using its own EIN.

Visit our [Pay or Play](#) section for additional information on calculating applicable large employer status



Methods of Reporting

Under the general method of reporting, an ALE must file with the IRS a Form 1094-C (transmittal) and, for **each full-time employee**, a Form 1095-C. Form 1094-C is used to report to the IRS summary information for each employer and to transmit Forms 1095-C to the IRS. Form 1095-C is used to report information about each employee.

To simplify the Section 6056 reporting process, certain information required to be reported to the IRS and furnished to full-time employees may be reported through the use of indicator codes rather than by providing more detailed information. The IRS has advised employers to refer to the forms and instructions for further details on the reporting process.

When to File & Furnish Statements

For 2022 calendar year reporting:

- Due to a final rule extending the annual furnishing deadline, Forms 1095-C must be furnished to full-time employees no later than March 2, 2023. Forms 1094-C and 1095-C must be filed with the IRS no later than Feb. 28, 2023 (or March 31, 2023, if filed electronically).

Combined Reporting

ALEs that are subject to both reporting provisions (generally ALEs that sponsor self-insured group health plans) will satisfy their reporting obligations on Form 1095-C, which has separate sections for reporting under Sections 6055 and 6056.

An ALE that provides fully insured coverage will complete only the section of Form 1095-C that reports the information required under Section 6056, while self-insured group health plans that

are not ALEs will report under Section 6055 on Form 1094-B and Form 1095-B.

Third-Party Reporting

ALEs may use third parties to facilitate filing returns and furnishing employee statements to comply with reporting requirements. However, this does not transfer the ALE's potential "pay or play" liability, nor does it transfer the potential liability for the failure to report and furnish statements.

In addition, if a person who prepares returns or statements under Section 6056 is a tax return preparer, that person will be subject to the requirements generally applicable to tax return preparers.

If more than one-third party is facilitating reporting for employers under common ownership or that are otherwise related, there must be only one Form 1094-C reporting aggregate employer-level data for all full-time employees of the ALE. Additionally, there must be only one Form 1095-C for each full-time employee with respect to employment with that ALE.

Penalties

The general reporting penalty provisions under Internal Revenue Code Sections 6721 and 6722 may apply to an ALE that:

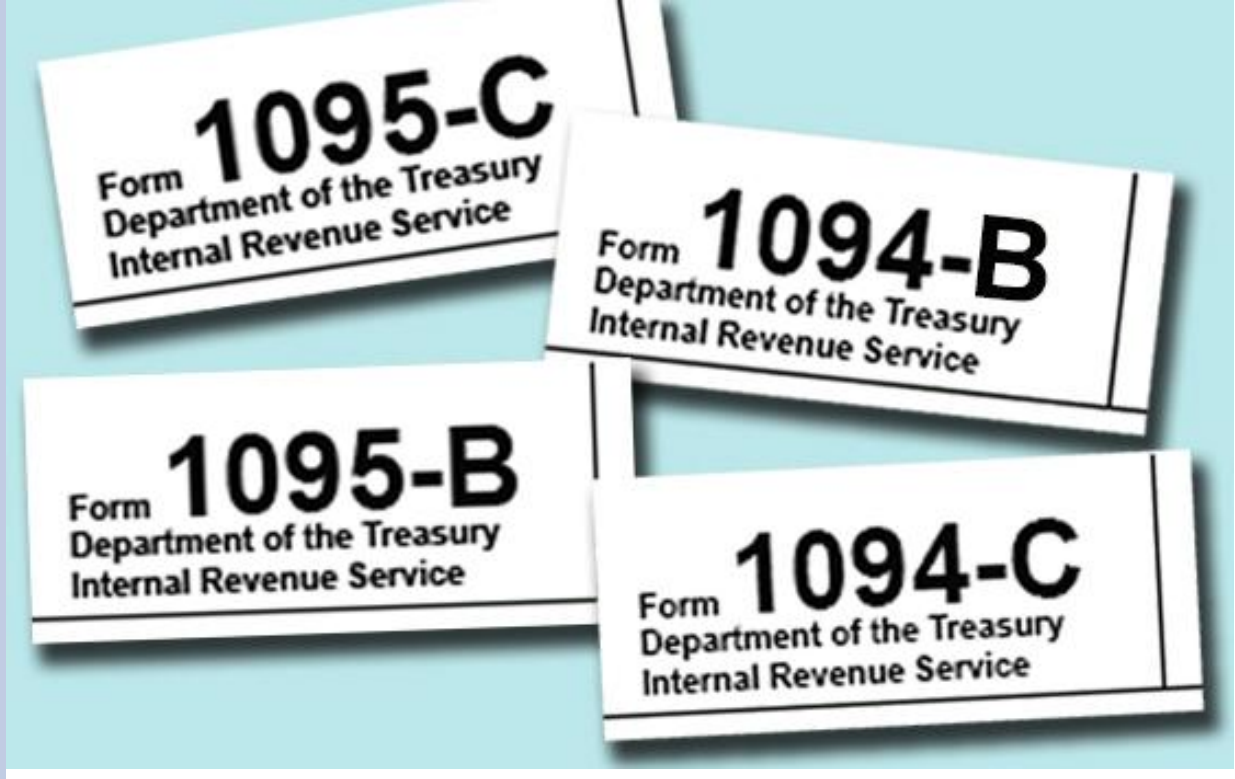
- Fails to file timely information returns or timely furnish statements;
- Fails to include all the required information in the return or the statement; or
- Includes incorrect information on the return or the statement.

Penalties can be as high as \$280 per return, with a maximum penalty of over \$3 million per year (adjusted for inflation). Lower penalties may be applicable to employers with gross receipts of \$5,000,000 or less. In certain circumstances, penalties may be waived.

Although penalty relief has been provided in prior years for reporting entities that make good faith efforts to comply with the reporting requirements, **this penalty relief is not available for reporting for tax year 2021 and subsequent years.**

Additional Information

- [IRS Q&As: Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\)](#)
- [IRS Q&As: Employer Information Reporting on Form 1094-C and Form 1095-C](#)
- [Federal Regulations](#)



Minimum Essential Coverage Reporting (Section 6055)

In general, any entity that provides minimum essential coverage to an individual must report to the IRS and furnish statements to individuals under Internal Revenue Code Section 6055. Employers that sponsor **self-insured group health plans** are subject to the Section 6055 information reporting requirements **regardless of size**:

- Self-insured employers that are not applicable large employers use Form 1095-B and the transmittal Form 1094-B to meet these requirements.
- Self-insured employers that are also applicable large employers must combine reporting under both Section 6055 and Section 6056 by filing a single information return (Form 1095-C) and transmittal (Form 1094-C).

Employers with fully insured group health plans will not report as a provider of health coverage under Section 6055, because the health insurance issuer or carrier is responsible for reporting that coverage. However, if the employer is an applicable large employer, it is responsible for reporting information under Section 6056 about the coverage it offers to its full-time employees.

When to File & Furnish Statements

For 2022 calendar year reporting:

- Due to a [final rule](#) extending the annual furnishing deadline, Forms 1095-B must be furnished to responsible individuals no later than March 2, 2023.
- Forms 1094-B and 1095-B must be filed with the IRS no later than Feb. 28, 2023 (or March 31, 2023, if filed electronically).

Alternative Method of Furnishing Under Section 6055

A [final rule](#) provides an alternative method for a reporting entity to timely furnish Forms 1095-B to individuals under Section 6055. These written statements were used to administer the ACA's individual mandate penalty. However, beginning in 2019, individuals no longer need Forms 1095-B because the individual mandate penalty was reduced to zero.

For all years that the individual mandate penalty is zero, the final rule provides an **alternative manner for a reporting entity to furnish statements to individuals under Section 6055**. Under this alternative manner of furnishing, the reporting entity must post a clear and conspicuous notice on its website stating that responsible individuals may receive a copy of their statement upon request and must furnish a statement to a requesting individual within 30 days of the date the request is received.

The notice must include an email address, a physical address to which a request may be sent and a telephone number to contact the reporting entity with any questions. It must be written in plain, nontechnical terms and with letters of a font size large enough (including any visual clues or graphical figures) to call to a viewer's attention that the information pertains to tax statements reporting that individuals had health coverage. Reporting entities must post the notice by the due date for furnishing ACA statements and must generally retain the website notice until Oct. 15 of that year.

ALEs that offer self-insured health plans are generally required to use Form 1095-C, Part III, to meet the Section 6055 reporting requirements instead of Form 1095-B. Self-insured ALEs may use this relief for employees who are enrolled in the ALE's self-insured plan and who are not full-time employees of the ALE, as well as for nonemployees (such as former employees) who are enrolled in the self-insured plan. **However, ALEs may not use the alternative method of furnishing for full-time employees who are enrolled in the self-insured plan.**

Third-Party Reporting

Reporting entities are permitted to use third parties to facilitate filing returns and furnishing statements to comply with reporting requirements. However, this does not transfer the potential liability of a reporting entity for the failure to report and furnish statements.

Penalties

The general reporting penalty provisions under Internal Revenue Code Sections [6721](#) and [6722](#) may apply to a reporting entity that:

- Fails to file timely information returns or timely furnish statements;
- Fails to include all the required information in the return or the statement; or
- Includes incorrect information on the return or the statement.

Penalties can be as high as \$280 per return, with a maximum penalty of over \$3 million per year (adjusted for inflation). Lower penalties may be applicable to employers with gross receipts of \$5,000,000 or less. In certain circumstances, penalties may be waived.

Although penalty relief has been provided in prior years for reporting entities that make good faith efforts to comply with the reporting requirements, **this penalty relief is not available for reporting for tax year 2021 and subsequent years.**

Additional Information

- [IRS Q&As](#)
- [Information Reporting by Providers of Minimum Essential Coverage](#)
- [Federal Regulations](#)

[final rule](#)

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Should you have additional questions or need assistance, please contact **NMGS** at 305 592-9926 or by email customerservice@mynmgs.com

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