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## Reporting Obligations Under IRC 6055 & 6056

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## Overview

- ★ We will review two of the PPACA reporting obligations—6055 & 6056
- ★ For both, an employer must begin collecting data in 2015 in order to file the required reports with the IRS and the applicable individuals
- ★ If at all possible, an employer should test run its systems in 2014

## IRC 6055

- ★ This applies to providers of minimum essential health coverage
  - > Almost all employer-sponsored group health plans are subject to this rule, however, the employer only reports for self-funded plans because the health insurance carrier reports for insured plans
    - Excepted benefits are not minimum essential coverage
- ★ There is no requirement that a provider of minimum essential coverage be of a certain size or have a certain number of employees
- ★ This will be used for the IRS to determine if someone owes a penalty under the individual mandate

## 6055—Information Reporting Requirement

- ✦ Every person that provides minimum essential coverage to an individual during a calendar year must file an information return and must furnish statements to responsible individuals
- ✦ Minimum essential coverage includes coverage under an eligible employer-sponsored plan (including coverage under a grandfathered plan)

## 6055—Persons Required To Report

★ The following persons must file the information return:

- > Health insurance issuers or health insurance carriers (essentially, for fully-insured plans)
- > Plan sponsors of self-insured group health coverage
- > The executive department or agency of a government unit that provides coverage under a government-sponsored program
- > Any other person that provides minimum essential coverage to an individual

## 6055—Plan Sponsors of Self-Insured Group Health Plans

♦ A plan sponsor of a self-insured group health plan is:

- > The employer, without regard to the controlled group rules
  - Each employer in the controlled group that participates will be required to report
  - For a MEWA, each employer participating in the MEWA
- > The association, committee, or joint board of trustees for a multiemployer plan
- > The employee organization if maintained solely by the employee organization

## 6055—Governmental Employers With Self-Insured Group Health Plans

- ✦ A governmental employer may enter into a written agreement with another governmental unit, or agency or instrumentality of a governmental unit as the person required to file the returns and statements
  - > They must be a part of or related to the same governmental unit
    - For example, a political subdivision of a State may designate the State
  - > Must make or revoke the designation before the deadline for filing the returns

## 6055—Reporting NOT Required for Qualified Health Plans

- ♦ Qualified Health Plans—a health insurance issuer is not required to file a return or furnish a report for coverage in a qualified health plan in the individual market enrolled in through the Exchange



## 6055—Reporting NOT Required for Supplemental Coverage

- ★ No reporting is required for minimum essential coverage that provides benefits in addition or as a supplement to a health plan that constitutes minimum essential coverage if:
  - > The primary and supplemental coverage have the same plan sponsor, OR
  - > The coverage supplements government-sponsored coverage, such as Medicare
- ★ No reporting is required for coverage offered to individuals who do not enroll

## 6055—Information Reported to the IRS

- ✦ Must report the following information for the calendar year of coverage:
  - > The name, address and employer identification number (EIN) of the reporting entity required to file
  - > The name, address and tax identification number (TIN) (or date of birth if TIN not available) of the responsible individual (unless he is not enrolled)
    - The responsible individual includes the primary insured, employee, former employee, parent or other related person named on the application who enrolls one or more individuals in minimum essential coverage

## 6055—Information Reported to the IRS— CONTINUED

- ✦ The name and TIN (or date of birth if TIN not available) of each individual who is covered under the plan
- ✦ For each covered individual, the months for which, for at least one day, the individual was enrolled in coverage and entitled to receive benefits

## 6055—Information Relating to Employer-Provided Coverage

- ✦ In addition to the 2 previous slides, for a return reporting minimum essential coverage provided to an individual by a health insurance issuer through a group health plan, such health insurer must also report:
  - > The name, address and EIN of the employer sponsoring the plan
  - > Whether the coverage is a qualified health plan enrolled in through SHOP and the SHOP unique identifier

## 6055—Obtaining the TIN

- ✦ The final regulations allow reporting of dates of birth in lieu of TINs only if the reporting entity is informed that an individual has no TIN or the reporting entity is unable to obtain a TIN after making reasonable efforts (as discussed in the next slide)
- ✦ “Nothing in these final regulations authorizes a reporting entity to terminate coverage if a TIN is not provided.”
- ✦ Reporting the date of birth in one year does not eliminate the need to make reasonable efforts to obtain a TIN

## 6055—Obtaining the TIN—CONTINUED

- ✦ A person will be treated as acting in a responsible manner if the person properly solicits the TIN but does not receive it
- ✦ Proper Solicitation
  - > The reporting entity must make an initial solicitation at the time the relationship is established
  - > If it does not receive the TIN, the first annual solicitation is required by December 31 of the year in which the relationship begins (January 31 of the following year if the relationship starts in December)

## 6055—Obtaining the TIN—CONTINUED

### ★ Proper Solicitation CONTINUED

- > If the TIN is still not provided, a second solicitation is required by December 31 of the following year
  - Essentially, you are asking for the TIN THREE times
- > If a TIN is still not provided, the reporting entity has acted in a responsible manner and need not continue to solicit a TIN
- ★ Remember that this is needed for everyone who is covered by the plan—and think about this as new dependents and spouses are added to coverage

## 6055—Time and Manner for Filing the Return

- ★ A reporting entity must file the return on or before February 28<sup>th</sup> (March 31 is filed electronically) of the year following the calendar year in which it provided minimum essential coverage to an individual
  - > First one is due in 2016 to report the coverage in 2015
- ★ Must file electronically only if the reporting entity is required to file at least 250 forms under 6055



## 6055—Form Of Return

- ✦ Applicable Large Employers members make the return on a Form 1094-C and Form 1095-C
  - > This is a combined return for reporting under both 6055 & 6056
  - > An Applicable Large Employer member that sponsors a self-funded plan will report on a Form 1095-C, completing both sections of the form for 6055 & 6056
  - > An Applicable Large Employer member that provides insured coverage will also report on Form 1095-C, but will complete only the section of Form needed for 6056
- ✦ If not reporting as an Applicable Large Employer member (insurance carriers, small employers, sponsors of multiemployer plans) report on 1094-B and 1095-B

## 6055—Correct Returns

- ✦ If the return is incorrect, a corrected return must be filed
- ✦ A return may be incomplete or incorrect as a result of a change in circumstances after the coverage year has ended. For example, a child born during a month may be enrolled in coverage retroactive to the date of birth
- ✦ Must timely file corrected return or subject to penalties
- ✦ Same rule applies to an incorrect or incomplete statement sent to the responsible individual

## 6055—Statement To Be Furnished To Responsible Individuals

- ★ Every person required to file a return under 6055, must issue statements to responsible individuals
- ★ The statement must show:
  - > The phone number for a person designated as the reporting entity's contact person and policy number, if any
  - > The same information that is provided for the return for the responsible individual and each covered individual listed on the return
- ★ This only goes to the responsible individual

## 6055—Form Of Statement

- ★ This statement is made either by furnishing to the responsible individual a copy of the return filed with the IRS or a substitute statement (that includes all of the required information)
  - > A truncated TIN may be used for the statement that goes to the responsible individual

## 6055—Time and Manner of Furnishing Statements

- ★ A reporting entity must furnish the statement to the responsible individuals on or before January 31 of the year following the calendar year in which minimum essential coverage is provided
- ★ If mailed, the statement must be sent to the responsible individual's last known permanent address or, if no permanent address is known, to the individual's temporary address

## 6055—Electronic Disclosure

- ✦ Rather than sending the statement to the responsible individual via US mail, it can be sent electronically, so long as ALL of the following requirements are met:
  - ✦ #1—CONSENT
    - > The recipient must consent in an electronic format (to demonstrate that he can access it electronically),
    - > The recipient must be able to withdraw the consent,
    - > If there is a change to the hardware or software required to access the document, new electronic consent is needed

## 6055—Electronic Disclosure—CONTINUED

### ♦ #2—REQUIRED DISCLOSURE

- > Prior to, or at the time of the consent, must provide a disclosure statement that contains very specific information such as that the individual can receive a paper copy, how to receive a paper copy, the scope and duration of the consent, how to withdraw the consent, when the statement will stop being sent electronically (such as at termination of employment), how to update information & certain information about the description of the hardware and software needed to access, print and retain the statement

## 6055—Electronic Disclosure—CONTINUED

### ♦ #3—FORMAT

- > The electronic version of the statement must contain all required information



## 6055—Electronic Disclosure—CONTINUED

### ♦ #4—NOTICE

- > If the statement is furnished on a website, the furnisher must notify the recipient. The notice may be delivered by mail, electronic mail or in person
- > The notice must provide instructions on how to access and print the statement and include the following statement in capital letters, “IMPORTANT TAX RETURN DOCUMENT AVAILABLE”
  - If the notice is provided by electronic mail, this statement must be on the subject line of the electronic mail

## 6055—Electronic Disclosure—CONTINUED

### ♦ #4—NOTICE—CONTINUED

- > If an electronic notice is returned as undeliverable, and the furnisher cannot obtain the correct address, then the furnisher must furnish the notice by mail or in person within 30 days after the electronic notice is returned
- > If the furnisher has corrected the statement and the original statement was furnished electronically, the furnisher must notify the individual that it has corrected the notice within 30 days of posting
  - This must be provided by mail or in person if an electronic notice of the website posting of an original statement or corrected statement was returned as undeliverable and the individual has not provided a new email address

## 6055—Electronic Disclosure—CONTINUED

### ♦ #5—ACCESS PERIOD

- > Statements furnished on a website must be retained on a website through October 15<sup>th</sup> of the year following the calendar year to which the statements relate
- > The furnisher must maintain access to corrected statements that are posted on the website through October 15<sup>th</sup> of the year following the year to which the statements relate or the date 90 days after the corrected forms are posted, whichever is later

## 6055—Electronic Disclosure—CONTINUED

### ♦ #6—PAPER STATEMENT AFTER WITHDRAWAL OF CONSENT

- > A furnisher must furnish a paper statement if an individual withdraws consent to receive a statement electronically and the withdrawal takes effect before the statement is furnished

## 6055—Penalties

- ✦ The penalty for failing to file a return with the IRS is generally \$100 **per return**, with a maximum of \$1.5 million per calendar year
- ✦ A separate penalty of up to \$100 for each failure to provide a statement to a responsible individual, subject to a \$1.5 million per calendar year maximum, may also be imposed
- ✦ There is relief for failure due to reasonable cause

## 6055—Penalties

- ✦ For reports that are due in 2016 (for coverage provided in 2015), the IRS will not impose penalties on reporting entities that can show that they have made good faith efforts to comply—but only for incorrect or incomplete information reported on the return or statement
  - > No relief is provided in the case of reporting entities that do not make a good faith effort to comply or that fail to timely file an information return or statement

## 6056—Information Reporting By ALEs

- ★ This section requires ALE members to report certain health insurance coverage information to the IRS and to furnish certain related employee statements to its full-time employees
- ★ This report will be used to assist the IRS with determining if an employer is subject to the penalties under IRC Section 4980H(a) and IRC Section 4980H(b)
- ★ The first reports are due in 2016 (as described later in this presentation)

## 6056—Content & Timing

- ✦ For the general method, a Section 6056 return may be made by filing a Form 1094-C (transmittal) and a Form 1095-C (employee statement)
  - > The 1094-C is somewhat like the W-3 and the 1095-C is somewhat like a W-2
- ✦ There must be only one section 6056 employee statement for each full-time employee with respect to that full-time employee's employment with the ALE member
- ✦ Like the W-2 rules, a separate return is required for each full-time employee, accompanied by a single transmittal form for all returns filed for a given calendar year



## 6056—Information Reported—General Method

- ✦ The first method we will review is the general method
- ✦ Every ALE member must make a 6056 information return with respect to each full-time employee. That information return must show:
  - > The name, address and employer identification number of the ALE member
  - > The name and telephone number of the ALE member's contact person
  - > The calendar year for which the information is reported

## 6056—Information Reported—General Method— CONTINUED

- > A certification as to whether the ALE member offered to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan—BY CALENDAR MONTH
- > For each full-time employee, the months during the calendar year for which minimum essential coverage under the plan was available
- > Each full-time employee's share of the lowest cost monthly premium (self-only) for coverage providing minimum value offered to that full-time employee under an eligible employer-sponsored plan—BY CALENDAR MONTH

## 6056—Information Reported—General Method— CONTINUED

- ★ The number of full-time employees for each month during the calendar year
- ★ The name, address and TIN of each full-time employee during the calendar year and the months, if any, during which the employee was covered under the plan

## 6056—Information Reported—General Method— Indicator Codes

- ✦ The preamble to the regulation states that under the general method, the following information will be reported through the use of indicator codes for some information:
  - > Information as to whether the coverage offered to full-time employees and their dependents under an employer-sponsored plan provides minimum value and whether the employee had the opportunity to enroll his or her spouse in coverage
  - > The total number of employees, by calendar month

## 6056—Information Reported—General Method— Indicator Codes

- > Whether an employee's effective date of coverage was affected by a permissible waiting period under 4980H, by calendar month
- > Whether the ALE member had no employees or otherwise credited any hours of service during any particular month, by calendar month
- > Whether the ALE member is a person that is a member of an aggregated group and, if applicable, the name and EIN of each employer member of the aggregated group constituting the ALE on any day of the calendar year for which the information is reported

## 6056—Information Reported—General Method— Indicator Codes

- > If an appropriately designated person is reporting on behalf of an ALE member that is a governmental unit (or agency or instrumentality thereof), the name, address and identification number of the appropriately designated person
- > If an ALE member is a contributing employer to a multiemployer plan, whether, with respect to a full-time employee, the employer is not subject to an assessable payment due to the employer's contributions to the multiemployer plan
- > If a third party is reporting for an ALE member with respect to the ALE member's full-time employees, the name, address and identification number of the third party

## Section 6056—Indicator Codes

- ✦ The preamble to the regulations states that the IRS anticipates that certain information as applied to a particular full-time employee will be reported to the IRS through the use of a code. Specifically, the following information will be reported with respect to each full-time employee for each calendar month using a code:
  - > Minimum essential coverage meeting minimum value was offered to:
    - (a) employee only,
    - (b) employee and the employee's dependents only,
    - (c) the employee and the employee's spouse only, or
    - (d) the employee, the employee's spouse and dependents

## Section 6056—Indicator Codes—CONTINUED

- > Coverage was not offered to the employee and:
  - (1) any failure to offer coverage will not result in a payment under section 4980H(a) or (b), for example because the employee was in a limited non-assessment period,
  - (2) the employee was not a full-time employee,
  - (3) the employee was not employed by the ALE member during that month, or
  - (4) no other code or exception applies
- > Coverage was offered to the employee for the month although the employee was not a full-time employee for that month



## Section 6056—Indicator Codes—CONTINUED

- > The employee was covered under the plan
- > The ALE member met one of the affordability safe harbors with respect to the employee

## 6056—Dates

- ✦ This is an annual filing obligation
- ✦ An ALE member must file the return on or before February 28 (March 31 if filed electronically) of the year succeeding the calendar year to which it is related
  - > First year this is due for an ALE member is 2016
    - For 2016, it is March 1, 2016 (because February 28, 2016 is a Sunday)
- ✦ Must file electronically if file at least 250 returns under Section 6056 during that calendar year

## 6056—Statement To Full-Time Employees

- ★ Every ALE member required to file a return under 6056 must furnish to each of its full-time employees identified on the return a written statement showing:
  - > The name, address and employer identification number of the ALE member
  - > The information required to be shown on the section 6056 return with respect to the full-time employee

## 6056—Statement To Full-Time Employees— CONTINUED

- ✦ A statement may either be made by furnishing to the full-time employee a copy of Form 1095-C or a substitute form
  - > A substitute form must have all of the required information and meet all of the IRS rules for substitute forms
- ✦ An IRS truncated TIN may be used as the identifying number for an individual
  - > Remember that the truncated TIN is for the employee statement only and not the return to the IRS

## 6056—Time For Furnishing Employee Statements

- ★ Each statement for a calendar year must be furnished to a full-time employee on or before January 31 of the year succeeding that calendar year
  - > First year this is due for an ALE member is 2016
    - For 2016, it is February 1, 2016 (because January 31, 2016 is a Sunday)
- ★ There are rules for applying for an extension of time and the IRS may issue other rules regarding possible automatic extensions

## 6056—Manner of Furnishing Employee Statements

- ♦ If mailed, the statement must be sent to the full-time employee's last known permanent address or, if no permanent address is known, to the employee's temporary address
- ♦ The statement may be furnished electronically, if the electronic disclosure rules in 6055 are met

## 6056—Penalties

- ★ The penalties under 6056 are essentially the same as the penalties under 6055
- ★ This includes the requirement to timely file corrected returns and statements if the ones that were filed were incorrect or incomplete
  - > This includes a change due to a retroactive change in coverage, similar to 6055

## 6056—Alternative Reporting Methods

- ✦ The IRS has identified specific groups of employees for whom alternative reporting would provide sufficient information
- ✦ In many situations, not every full-time employee fits into the groups of employees for which an alternative reporting method is available. In that case, the employer would use the general method for those employees



## 6056—Alternative Method Based on Certification of Qualifying Offers

- ✦ This option is meant to be a simplified method for a certain group of employees
- ✦ It is an alternative to the general method which requires monthly, employee-specific information
- ✦ Essentially, the ALE member is certifying that it offered qualifying coverage to such employees—and then can report a simplified 6056 return with respect to those employees
- ✦ To be eligible to use this alternative method with respect to its full-time employees, the 4 requirements set forth in the next several slides must be met

## 6056—Alternative Method Based on Certification of Qualifying Offers

- ♦ Requirement #1—The ALE member certifies on the Section 6056 transmittal form that it made a qualifying offer

## 6056—Alternative Method Based on Certification of Qualifying Offers

- > A qualifying offer is an offer to an employee for all months during the calendar year for which the employee was a full-time employee (and which are not within a limited non-assessment period) of:
  - minimum essential coverage providing minimum value
  - at an employee cost for employee-only coverage that does not exceed 9.5% of the mainland single federal poverty line, and
  - that includes an offer of minimum essential coverage to the employee's spouse and dependents

## 6056—Alternative Method Based on Certification of Qualifying Offers

- > Non-assessment period means the limited period during which an employer will not be subject to an assessable payment under 4980H(a) for certain employees, which includes such things as:
  - The transition rule for an employer's first year as an ALE member
  - The 3 full calendar month period beginning with the first full calendar month in which an employee is first otherwise eligible for an offer of coverage under the monthly measurement method
  - The initial 3 full calendar months of employment for an employee reasonably expected to be a full-time employee at the start date, under the look-back measurement method
  - The initial measurement period to a new variable hour employee, seasonal employee or part-time employee determined to be employed on average at least 30 hours of service per week, under the look-back measurement method

## 6056—Alternative Method Based on Certification of Qualifying Offers

- ♦ Requirement #2—The applicable ALE member provides on the Form 1095-C (or other permitted substitute form), particular information for those employees covered by this method (which is the employee's name, social security number and address) and indicates, using an indicator code, that a qualifying offer was made for all 12 months of the calendar year

## 6056—Alternative Method Based on Certification of Qualifying Offers

- ♦ Requirement #3—The ALE member provides a statement to each full-time employee to whom a qualifying offer was made for all 12 months of the applicable calendar year, in such form and manner required by the IRS, or a copy of the Form 1095-C filed with the IRS with respect to that full-time employee

## 6056—Alternative Method Based on Certification of Qualifying Offers

- ♦ Requirement #4—The ALE member files section 6056 returns and furnishes section 6056 employee statements with respect to all other full-time employees under the general reporting method

## 6056—Alternative Method Based on Certification of Qualifying Offers

- ✦ For each employee who received a qualifying offer for fewer than 12 months of the calendar year, the ALE member will file and furnish 6056 returns and statements under the general reporting method
- ✦ The ALE member will report information under the general reporting methods for those months for which a qualifying offer was not received, but may use an indicator code to report the months for which a qualifying offer was received



## 6056—Alternative Method Based on Certification of Qualifying Offers for 2015

- ★ Solely for 2015, a separate alternative method is available
- ★ The ALE member must: (1) certify that it has made a qualifying offer to at least 95% of its full-time employees and to their spouses and dependents and (2) provide an informational statement to all of the full-time employees
- ★ If those 2 conditions are met, then the ALE member only reports the employee's name, SSN, and address and indicates, using an indicator code, either that a qualifying offer was made for all 12 months or the specific months of the calendar year it was not & provides a statement to the employee

## 6056—Option To Report Without Separate Identification of Full-Time Employees

- ✦ An ALE member that would otherwise meet its reporting obligation under section 6056 is not required to identify on its section 6056 return whether a particular employee is a full-time employee for one or more calendar months of the reporting year or report the total number of its full-time employees for the reporting year, if it certifies that it offered minimum essential coverage providing minimum value that was affordable (under any of the safe harbors) to at least 98% of the employees (and their dependents) with respect to whom it reports for purposes of Section 6056 under the general reporting rule

## 6056—Option To Report Without Separate Identification of Full-Time Employees

♦ Example: Employer has 1,000 employees who are expected to have at least 27 hours of service per week in a calendar year. Employer does not want to determine which of these employees are full-time employees for purposes of section 4980H. Before the start of the year, Employer makes an offer of minimum essential coverage providing minimum value that is affordable for section 4980H purposes to 990 of these 1,000 employees and reports under section 6056 for all 1,000 employees.

## 6056—Option To Report Without Separate Identification of Full-Time Employees

- ♦ Example Continued: Because Employer has satisfied the conditions [of the special rule], Employer is not required to report either the total number of full-time employees for the year or whether any particular employee was a full-time employee for any calendar month during the year. If an employee included as part of the return declines the offer of coverage and properly claims a premium tax credit with respect to coverage provided through an Exchange for one or more months during the calendar year, and the employer is contacted by the IRS to determine whether the employer did or did not owe an assessable payment under section 4980H(b), the employer could determine at that point whether the employee was a full-time employee for those months and supply that information to the IRS.

## 6056—Reporting For ALE members With Fewer Than 100-Full-Time Employees

- ★ There are special transition rules in 4980H for 2015 for employers with at least 50 full-time employees (including FTEs) but fewer than 100 (including FTEs)
- ★ Those employers will still report under 6056, but they report that they met this special transition rule for 2015

## 6056—Special Rules for Multiemployer Plans

- ✦ There are special rules for 6056 reporting with respect to full-time employees for whom an ALE member contributed to a multiemployer plan
- ✦ It is permitted for the multiemployer plan administrator to prepare the returns for those employees and the ALE member would prepare the returns pertaining to the remaining full-time employees (those who are not eligible to participate in a multiemployer plan)

## 6056—Special Rules for Multiemployer Plans

- ✦ The administrator of the multiemployer plan would file a separate section 6056 return for each ALE member that is a contributing employer on behalf of whom it files, providing the name, address and identification number of both the plan and the ALE member
- ✦ The ALE member would remain the responsible person under 6056 and would be the one subject to any potential liability
- ✦ Further details will be provided in the forms and instructions

## 6056—Special Rules For Governmental Units

- ✦ In general, each ALE member must file a section 6056 return with respect to its full-time employees
- ✦ However, under this special rule, a governmental unit may report under Section 6056 on its own behalf or may appropriately designate another person or persons on its behalf
- ✦ The person or persons appropriately designated is (are) the person(s) responsible for section 6056 reporting on behalf of the ALE member and subject to the penalties for failure to comply with the information return requirements



## 6056—Special Rules For Governmental Units— CONTINUED

- ✦ In the case of an ALE member that is a governmental unit or an agency or instrumentality thereof, the person appropriately designated for purposes of filing the reports under 6056 must be part of or related to the same governmental unit as the ALE member
- ✦ The ALE member must make (or revoke) the designation before the earlier of the deadline for filing the returns or furnishing the statements under 6056

## 6056—Special Rules For Governmental Units— CONTINUED

- ★ A person who has been appropriately designated must file a separate return for each ALE member
- ★ There must be only one section 6056 employee statement for each full-time employee with respect to that full-time employee's employment with the ALE member
- ★ The designation under this special rule must be made in writing, must be signed by the relevant parties and must meet all of the other requirements in the regulation

## 6056—Special Rules For Governmental Units— CONTINUED

- ✦ The special designation must contain information identifying the category of full-time employees for which the designated person is responsible for reporting under 6056 (such as those covered by a certain health plan, a particular job category, etc...)
- ✦ The designation is not submitted to the IRS but must be maintained under the IRS record retention rules

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