

ACA Reporting Requirements Frequently Asked Questions

General

Q1: What is the intent of the Affordable Care Act (ACA) reporting requirements?

A1: The reporting requirements are intended to help the Internal Revenue Service (IRS) administer several provisions under the Affordable Care Act. Specifically, the IRS will use the information reported by employers to determine whether:

- individuals are (or are not) eligible for subsidies to purchase health insurance in the individual Health Insurance Exchange (Marketplace);
- health coverage offered by a large employer meets the requirements of the ACA's employer mandate or whether the large employer is subject to potential penalties; and
- individuals are enrolled in coverage that meets the ACA's individual mandate.

Q2: When did the new reporting requirements start?

A2: The requirements first applied for calendar year 2015. Employers were first responsible for reporting information to the IRS in 2016.

Q3: Are all employers (even small employers) responsible for reporting to the IRS?

A3: It depends. There are two sections of the Internal Revenue Code (Code) related to reporting.

Code Section 6055 applies to any "person" that provides minimum essential coverage (MEC) to any individual during the preceding calendar year, to report certain information about the health coverage to the IRS and the individual. An employer who sponsors a self-funded health plan for its employees and/or former employees is the responsible "person" for reporting under Code Section 6055. All employers, regardless of size, are subject to Code Section 6055 reporting if they sponsor a self-funded health plan.

Code Section 6056 requires all applicable large employers (ALE) to report certain information about the health coverage they offered to full-time employees in the preceding calendar year. ALEs must report this information to the IRS and the ALE's full-time employees. In general, an ALE is an employer with 50 or more full-time employees (including full-time equivalent employees).

PEBA has prepared the ACA Reporting Quick Reference for the "The State" ALE and the ACA Reporting Quick Reference for Other Employers to help employers understand the reporting requirements. The guides are posted under "Publications" on the PEBA website.

Q4: What forms must an employer submit to the IRS?

A4: An ALE that sponsors a fully-insured plan must file Form 1094-C and Form 1095-C (Parts I and II only) to satisfy its reporting obligations under Code Section 6056 with respect to its employees (whether enrolled or not enrolled in the plan). The insurer will complete the necessary reporting under Code Section 6055 on Form 1094-B and Form 1095-B.

An ALE that sponsors a self-funded health plan must file a combined report on Form 1094-C and Form 1095-C (Parts I, II, and III) to satisfy its reporting obligations under Code Section 6055 and Code Section 6056 with respect to its full-time employees (regardless of whether they enrolled or did not enroll in the plan). In addition, an ALE must use Form 1094-C and Form 1095-C (Part III) to report with respect to any employee (and applicable dependents) who actually enrolled in the plan during any month of the reporting year.

An ALE that sponsors a self-funded health plan that offers coverage to non-employees may file either Form 1094-C and Form 1095-C or Form 1095-B and Form 1094-B to satisfy its reporting obligations under Code Section 6055 with respect to those non-employees enrolled in its plan. A non-employee for purposes of these FAQs means an individual who was not an employee during any month of the reporting year (such as a full-year retiree, full-year COBRA participant, or a survivor).

An employer that sponsors a self-funded health plan and that is not an ALE will file Form 1094-B and Form 1095-B to satisfy its reporting obligations under Code Section 6055 with respect to employees and non-employees enrolled in its plan.

Q5: Who will be responsible for submitting these forms to the IRS?

A5: For employees:

Each employer is responsible for filing forms for any individual who was a full-time employee with it at any time during the preceding calendar year. If you are a state agency or division, you are part of the ALE that is "The State" ALE (see question six).

For non-employees:

PEBA will be responsible for making the returns and statements required for non-Medicare eligible retirees, COBRA subscribers, and survivors of the ALE that is "The State." [Here](#) is the list of employers included in "The State" ALE. Other employers that participate in the State Health Plan pursuant to S.C. Code Ann § 1-11-710 (technical colleges, public universities, public school districts and certain public corporations) may designate PEBA as its Designated Governmental Entity (DGE) for making the returns and statements required for its non-Medicare eligible retirees, COBRA subscribers, and survivors. [Here](#) is the list of employers that can designate PEBA as its DGE.

PEBA will not allow employers that participate in the State Health Plan pursuant to S.C. Code Ann § 1-11-720 (local subdivisions) to designate PEBA to report for its non-Medicare eligible former employees, COBRA subscribers, or survivors. Local subdivisions must report for their own non-Medicare eligible former employees.

Q6: Who will be responsible for completing and submitting forms for active employees of "The State" ALE?

A6: Representatives from the Comptroller General's Office, the Division of Human Resources, SCEIS, and PEBA have been meeting

regularly to determine the best process for reporting for "The State" ALE. PEBA has been identified as the reporting entity for former non-Medicare eligible employees (retirees, survivors, and COBRA subscribers) and their covered dependents. The specific reporting entity for active employees has not been identified at this time. Regardless of which agency is designated as the reporting entity, it is important to note:

- All agencies should be tracking eligibility for benefits and offers of coverage for each of its employees.
- Only one consolidated report for active employees of the State will be submitted to the IRS (individual state agencies will not be responsible for compiling and submitting the forms for its employees).
- The reporting entity for the State will compile the information required for reporting and will file on the State's behalf. For this reason, the information on eligibility and offers of coverage must be entered in a consistent manner among the State ALE divisions and stored in a central reporting system.
- SCEIS has developed a system enhancement for employers to use to ensure the information required for ACA reporting is captured in the system. Agencies are required to enter benefit eligibility and offers of coverage in SCEIS for any employee on payroll as of January 1, 2015, or anytime thereafter.

Q7: How does an employer designate PEBA as its Designated Governmental Entity (DGE) for its former non-Medicare eligible retirees, COBRA subscribers, and survivors?

A7: Employers that participate in the State Health Plan pursuant to S.C. Code Ann § 1-11-

710 (technical colleges, public universities, public school districts, and certain public corporations) may designate PEBA as their DGE by completing the [Designated Governmental Entity Form](#) and returning the signed form via email to dge@peba.sc.gov. The deadline to submit the DGE form to PEBA was October 31, 2015.

If the employer is eligible to designate PEBA as its DGE, PEBA will sign and accept the designation and return the form to the employer via email. Please note, until the employer receives a signed accepted copy of the DGE form back from PEBA, PEBA is not responsible for the employer's Code Section 6055 reporting.

Q8: How will PEBA assist employers with the forms?

A8: For employees:

In Part III of the 1095-C, ALEs must report about their employees (and their dependents) who are covered by the plan for purposes of satisfying their reporting obligations under Code Section 6055. To facilitate the employer's reporting requirements, PEBA will provide employers with an electronic file that contains this information.

In Part IV of the 1095-B, non-ALEs must report about their employees (and their dependents) who are covered by the plan for purposes of satisfying their reporting obligations under Code Section 6055. To facilitate the employer's reporting requirement, PEBA will provide employers with an electronic file that contains this information.

The format for all files will be a tilde delimited text file and will be placed in EBS around the last week of December.

For non-employees:

PEBA will prepare and submit the Forms 1095-B and 1094-B for former non-Medicare eligible employees (retirees, survivors, and COBRA subscribers) of "The State" ALE and any other employer that designates PEBA as its Designated Governmental Entity (DGE).

If an employer does not or cannot designate PEBA as its DGE, PEBA will provide employers with an electronic file (see above for file information) that contains information for the employer's former non-Medicare eligible employees and dependents. This information is required for Part IV of Form 1095-B.

Q9: Do I have to report for all my employees?

A9: Code Section 6055:

An employer subject to Code Section 6055 reports for an employee (and issues the employee a statement) only if the employee enrolled in coverage during any month of the reporting year.

Code Section 6056:

A employer subject to Code Section 6056 reports for an employee (and issues the employee a statement) if the employee was a full-time employee during any month of the reporting year, regardless of whether it offered the employee coverage or the employee enrolled in coverage.

Note: An employer subject to only Code Section 6055 will report the necessary information for an employee on Form 1095-B. An employer subject to Code Section 6055 and Code Section 6056 will report the necessary information for an employee on Form 1095-C. An employer subject to both Code Sections has the option to use Form 1095-B only to report with respect to non-employees.

Q10: If an employee declined coverage, do I have to report for the employee?

A10: Code Section 6055:

No. An employer subject to Code Section 6055 reports for an employee (and issues the employee a statement) only if the employee enrolled in coverage.

Code Section 6056:

A large employer subject to Code Section 6056 must report for an employee (and issue the employee a statement) if the employee was a full-time employee during any month of the reporting year even if the employee declined coverage. Even though the employee declined coverage, the employer must report whether it offered the full-time employee coverage so that the IRS can determine whether the employer is subject to a penalty under the employer mandate.

Q11: If an employee no longer works at my entity, do I have to report for the employee (and issue the employee a statement)?

A11: Code Section 6055:

Yes, if the employee enrolled in coverage during any month of the reporting year.

Code Section 6056:

Yes, if the employee was a full-time employee during any month of the reporting year (even if you did not offer the employee coverage or the employee did not enroll in coverage). You will use the appropriate code for months in which the employee was not employed and/or not offered coverage on Form 1095-C.

Q12: Do I have to report for an employee who retired in 2015?

A12: Code Section 6055:

Yes, if the employee enrolled in coverage during any month of the reporting year.

Code Section 6056:

Yes, if the employee was a full-time employee during any month of the reporting year (even if you did not offer the employee coverage or the employee did not enroll in coverage). You will use the appropriate code for months in which the employee was not employed and/or not offered coverage on Form 1095-C.

If the employee enrolled in retiree benefits, you will receive the retiree coverage information from PEBA to include on Form 1095-C or Form 1095-B (as applicable) if not part of "The State" ALE.

Q13: Do supplemental plans need to be reported?

A13: Code Section 6055:

In general, minimum essential coverage that supplements a primary plan or that supplements government-sponsored coverage, such as Medicare or TRICARE, is supplemental coverage subject to reporting. Supplemental coverage is not subject to reporting only if it supplements other coverage for which Code Section 6055 reporting is required. This exception applies to employer-sponsored coverage only if the same employer sponsors the supplemental plan and the other coverage for which Code Section 6055 reporting is required. Thus, employer-sponsored coverage that supplements government-sponsored coverage remains subject to reporting.

Code Section 6056:

Large employers subject to Code Section 6056 must report for an employee, regardless of whether the employee is covered by government-sponsored coverage, if the employee was a full-time employee during any

month of the reporting year so that the IRS can determine whether an employer penalty applies. Employers should report an employee's enrollment in a supplemental plan. PEBA will not send employers coverage information for TRICARE subscribers and dependents.

Q14. When do statements (1095-C/1095-B) need to be furnished to individuals?

A14. Statements must be furnished to responsible individuals on or before January 31, 2016.

Q15: When do reports need to be submitted to the IRS?

A15: Reports can be submitted to the IRS in either paper format by February 28, 2016, or electronic format by March 31, 2016. Employers that file 250 or more returns must file their returns electronically.

Q16: Are reports submitted to the IRS just like Form W-2?

A16: No, reports must be submitted through the Affordable Care Act Information Returns (AIR) Program. This is new and employers must register to obtain login credentials in order to submit returns through the AIR program. In addition, employers are required to complete Assurance Testing. Please refer to IRS Publications 5164 and 5165 and the Air Composition and Reference Guide for further information.

Please note: Employers will not be able to submit their returns to the IRS electronically without completing the steps required with the AIR program.

Q17: Can you provide any guidance regarding employer versus staffing agency

responsibilities as it relates to the reporting requirements?

A17: An employer is only required to report on individuals who are considered "common law" employees. Typically, with a staffing agency, the agency recruits and hires the workers, assigns them to various clients and assigns them to other clients when that project ends. In that case, the workers are often determined to be common law employees of the agency and not the client. **Employers are advised to review their situation with their legal counsel and to confirm their understanding in writing with the agency.**

Q18: May an employer hire a third party service provider to file returns with the IRS and furnish the statements to employees?

A18: Yes. Reporting arrangements between employers, issuers, and other parties are not prohibited. Each employer must make its own assessment of the value of hiring an outside provider to prepare the statements and/or file the return. The employer is still responsible for providing the right information and ensuring the accuracy of the reporting, and will still be liable for penalties.

Q19: May an employer furnish a statement to an employee by hand delivery?

A19: Yes. Form 1095 may be delivered to employees in any manner permitted for delivery of Form W-2.

Q20: May an employer furnish a statement to an employee electronically?

A20: Yes, however, there are specific IRS guidelines for notice, consent, and hardware and software requirements for furnishing statements to employees electronically.

Q21: What if I mailed the statement, and it is returned for a bad address?

A21: According to the IRS instructions, if mailing the statements, the statements should be mailed to the employee's last known permanent address, or if no permanent address is known, to the employee's temporary address.

Q22: What if an employee has dependents who are not U.S. citizens and do not have Social Security numbers (SSN)?

A22: The IRS requires that an employer use an individual's taxpayer identification number (TIN), which is usually the SSN, to identify the individual on the reports. The rules require that employers make reasonable efforts to obtain the SSN. There are specific steps set forth in IRS guidance that an employer must take in order for it to be treated as having made reasonable efforts. Please consult your legal counsel to ensure you take these steps. If an SSN is not available after an employer takes reasonable efforts to obtain one, the employer may use the date of birth to help the IRS confirm an individual's identity.

Q23: In the case of a dependent (spouse, adult child) who is over 18 years old, does that mean we have to generate a separate statement for that dependent in case the dependent files a separate tax return?

A23: In general, no. Under the final IRS rules, employers are required to furnish statements to responsible individuals. The term generally means the primary insured or person named on the application who enrolls one or more individuals. This will usually be the employee or the former employee. The IRS has indicated that responsible individuals should provide a copy to individuals covered under the policy if they request it for their records. Note, however, that if a spouse or an adult child separately elects COBRA coverage, the spouse or adult child (as the COBRA subscriber) will be the

responsible individual and will need to be issued a separate statement.

FORMS

Q24: What is the difference between Form 1095-B and Form 1095-C?

A24: Both forms are similar since they both will be used to report information to the IRS and to furnish information to taxpayers about their coverage. The coverage information will be used by employees (and family members) to report on their tax returns that they had minimum essential coverage for some or all months of the year.

Form 1095-C is used for reporting information required under Code Section 6055 and Code Section 6056. Part II of Form 1095-C relates to reporting under Code Section 6056. Part III of Form 1095-C relates to reporting under Code Section 6055. Only ALEs may use Form 1095-C.

The primary difference between the two forms is that Form 1095-C will be used by employers with 50 or more full-time employees (including full-time equivalent employees) that are subject to the employer responsibility provisions. Form 1095-C contains information about the offer of health insurance coverage made to employees, the employee's share of the lowest cost premium, and other information related to the employer responsibility provisions.

In contrast, Form 1095-B only relates to reporting under Code Section 6055. Non-ALEs will use Form 1095-B for employees and non-employees enrolled in their plans. ALEs may only use Form 1095-B for non-employees enrolled in their plans.

Q25: Is the State Health Plan a self-funded health plan?

A25: Yes.

Q26: Is the State Health Plan a multiemployer plan?

A26: No, the State Health Plan is an employer-sponsored plan.

Q27: What does minimum essential coverage (MEC) and minimum value (MV) mean?

A27: In general, MEC means employer-sponsored coverage, Medicare, Medicaid, CHIP, TRICARE, and certain other coverages that provide medical benefits.

MV means that the minimum essential coverage plan's share of total allowed costs of benefits is at least 60 percent of such costs.

Q28: Is State Health Plan coverage MEC providing MV?

A28: Yes.

Q29: What is the best way to get the data for Form 1095-C?

A29: Much of the data needed is probably housed in your human resource system, benefits system, and payroll systems. Work with your accounting, benefits, and payroll areas to ensure that all the data needed for this reported is captured in your systems.

Q30: I'm confused about which codes to use in Part II of the 1095-C Form. Will PEBA tell employers which codes to use?

A30: PEBA cannot advise employers on which codes to use in Part II of the 1095-C Form. Employers should refer to the IRS instructions and seek advice from their tax and legal advisors. PEBA has prepared a sheet that lists

the Series 1 codes used on line 14 and the Series 2 codes used on line 16. The sheet gives a description of each code with some comments that employers may find helpful. The sheet can be found on the PEBA website.

Keep in mind that your selection on the Part II, line 22 of the 1094-C affects the Code Series 1 codes used on line 14 of Form 1095-C as well as the Code Series 2 codes used on line 16.

Q31: What is the difference between lines 14 and 16?

A31: The primary difference between lines 14 and 16 is that line 14 indicates coverage which was offered (or not), while line 16 indicates why coverage may not have been offered, whether it was taken, or whether the coverage was affordable.

Q32: Is an employer required to complete all the boxes on line 14 for an employee who wasn't hired until midyear?

A32: Yes. An employer is required to either complete the "All 12 Months" box on line 14 or the individual month boxes on that line for each employee that receives a 1095-C Form. Line 14 should not be left blank. An employer will use the appropriate code from Code Series 1 to indicate in which months an individual was not an employee and for which months an offer of coverage was not made.

Q33: Does line 15 reflect what an employee is offered (whether enrolled or not) or does it reflect the actual cost of what the employee is enrolled in?

A33: The amount on line 15 should reflect the employee cost of the lowest cost of self-only, minimum essential coverage providing minimum value offered to the employee, even if the employee enrolls in a more expensive

plan or other than single coverage (such as family coverage). For the State Health Plan, that would be the employee rate for the Savings Plan (\$9.70/month). Affordability is based on the lowest cost of self-only minimum essential coverage providing minimum value that does not exceed 9.66 percent of employee's household income, rather than the plan actually elected. **Keep in mind that line 15 is only required to be completed if an employer uses certain codes on line 14.**

Q34: Will an employer be subject to a penalty if an employee declines coverage because he or she is covered elsewhere?

A34: No, provided the employer offered the employee affordable minimum essential coverage providing minimum value. A penalty is only assessed if the employer fails to offer such coverage and the employee qualifies for a subsidy for coverage on a Health Insurance Exchange (or "Marketplace").

Q35: What is a limited non-assessment period and when is it used?

A35: A limited non-assessment period means a period where the employer is not subject to a penalty for not offering an employee coverage. Limited non-assessment periods include:

- Waiting period (for example, if an employee hired July 16 is not eligible for coverage until August 1, the month of July is a limited non-assessment period)
- Initial measurement period or administrative period (for example, if a variable hour employee is hired in 2014 and his or her initial measurement period ends in March 2015, the months of January 2015, through April 2015, would be a limited non-assessment

period if the employee was eligible for coverage May 1)

Q36: Is there a certain method that I should use for counting the number of employees in each month for Form 1094-C purposes?

A36: Columns B and C of Part III of Form 1094-C ask for counts of full-time employees (excluding those in limited non-assessment periods) and total employees. Employers may use one of the following four methods to count employees each month:

- Employee count on the first day of the month
- Employee count on the last day of the month
- Employee count on the first day of the first pay period of the month
- Employee count on the last day of the first pay period of the month

Employers must use a consistent approach for each month of the year.

Q37: Can PEBA advise employers on Part II, line 22 (Certification of Eligibility) on Form 1094-C?

A37: PEBA cannot advise employers on which method they should select. Employers are free to choose any (and all) methods that are applicable.

Keep in mind that your selection here affects the Code Series 1 codes used on line 14 of Form 1095-C. Employers should consult their tax advisors or legal counsel.

The method that will be used by "The State" ALE is: B. Qualifying Offer Method Transition Relief.

PEBA is not advising you to select this method but rather sharing the method that was chosen for "The State" ALE.

Q38: Form 1095-C asks for the plan start month. What month should we enter?

A38: The plan start month is January.