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Health Care Reform Information Reporting (Code Sections 6055 and 6056) — And A Discussion of the Cadillac Tax

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Overview-- Health Care Reform Information Reporting

- ★ On August 28, 2014, draft instructions were issued for the draft forms
- ★ Final forms and instructions for voluntary reporting in 2015 (for coverage offered in 2014) were issued in February of 2015
 - > Reporting in 2015 for 2014 coverage is NOT required
 - > Reporting in 2016 for 2015 coverage IS REQUIRED

Overview

♦ At a very high level:

- > Forms 1094-B & 1095-B are used to report that the person was covered under an insured plan (with some exceptions)
 - These forms are predominately used by the insurance carriers (with some exceptions)
 - Many employers will not use these forms
 - These forms are used by the IRS to determine if an individual has meet his obligation under the individual mandate

Overview

★ At a very high level:

- > Forms 1094-C & 1095-C are used to report the employer's compliance with the employer shared responsibility rules (pay or play) and to report its employees who are covered under a self-funded plan
 - All Applicable Large Employer Members will file this form
 - It serves 3 main purposes: (1) to determine if the employer met its obligation under the pay or play rules, (2) to report which employees met their individual mandate requirement by having coverage under the employer's self-funded plan and (3) determining if an employee is eligible for the premium assistance for coverage on the public Exchange

Overview

★ Applicable Large Employer

- > Insured Plan — Applicable Large Employer Member files Forms 1094-C & 1095-C Parts I and Parts II (and not Part III). Insurer files Forms 1094-B & 1095-B
- > Self-Insured Plan — Applicable Large Employer Member files Form 1094-C & 1095-C, Parts I, II and III
- > Remember, EACH Applicable Large Employer Member files for its OWN common law employees
- > Also there are special rules for multiemployer plans and designated governmental entities

IRC Section 6055—What Information Must Be Reported

- ★ The information that must be reported on Form 1095-B and on Part III of Form 1095-C is essentially the same—both are meeting the reporting requirements set forth in IRC Section 6055
 - > Biggest issue is the collection of the data and the time needed to prepare the forms

Form 1095-C

♦ <http://www.irs.gov/pub/irs-pdf/f1095c.pdf>

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/f1095c .						<input type="checkbox"/> VOID <input type="checkbox"/> 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															
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. <input type="checkbox"/>															
(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)					

Information to Individuals – IRC Section 6055

- ✦ Statements to Responsible Individuals must be furnished on or before January 31 of the year immediately following the calendar year to which the statements relate (e.g., February 1, 2016 for 2015 statements)
- ✦ The Forms must be filed with the IRS on or before February 28 (March 31 if filed electronically) of the year following the year in which it provided MEC
- ✦ A provider that is required to file 250 or more Forms 1095-B, or 250 or more Forms 1095-C during a calendar year must file the returns with the IRS electronically

IRC Section 6056

- ✦ ACA added Code Section 6056, which requires Applicable Large Employers to file information returns with the IRS about its compliance with the pay or play rules
 - > This is reported on Forms 1094-C and 1095-C, Parts I and II
- ✦ An Applicable Large Employer (ALE) determination is made by looking at the entire controlled group
- ✦ These reporting requirements apply to each separate entity and each separate entity is referred to as an applicable large employer member (ALE Member)

Form 1094-C

♦ <http://www.irs.gov/pub/irs-pdf/f1094c.pdf>

<p>Form 1094-C</p> <p>Department of the Treasury Internal Revenue Service</p>	<p>Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns</p> <p>▶ Information about Form 1094-C and its separate instructions is at www.irs.gov/f1094c.</p>	<p><input type="checkbox"/> CORRECTED</p>	<p>120115 OMB No. 1545-2251</p> <p>2014</p>
<p>Part I Applicable Large Employer Member (ALE Member)</p>			
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	
<p>For Official Use Only</p> 			
17 Reserved <input type="checkbox"/>			
18 Total number of Forms 1095-C submitted with this transmittal ▶			
<p>Part II ALE Member Information</p>			
19 Is this the authoritative transmittal for this ALE Member? If "Yes," check the box and continue. If "No," see instructions <input type="checkbox"/>			
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? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If "No," do not complete Part IV.			
22 Certifications of Eligibility (select all that apply):			
<input type="checkbox"/> A. Qualifying Offer Method <input type="checkbox"/> B. Qualifying Offer Method Transition Relief <input type="checkbox"/> C. Section 4980H Transition Relief <input type="checkbox"/> 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 _____
<p>For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 61571A Form 1094-C (2014)</p>			

Form 1094-C

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Form 1094-C (2014)

Part III ALE Member Information—Monthly

		(a) Minimum Essential Coverage Offer Indicator		(b) Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Section 4960H Transition Relief Indicator
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24	Jan	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
25	Feb	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
26	Mar	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29	June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30	July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

Form 1094-C (2014)

Form 1094-C

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Form 1094-C (2014)

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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 (who were members at any time during the calendar year).

Name	EIN	Name	EIN
36		51	
37		52	
38		53	
39		54	
40		55	
41		56	
42		57	
43		58	
44		59	
45		60	
46		61	
47		62	
48		63	
49		64	
50		65	

Form 1094-C (2014)

Form 1095-C Part II

Form **1095-C** **Employer-Provided Health Insurance Offer and Coverage** VOID OMB No. 1545-0045
 Department of the Treasury 2014
 Internal Revenue Service CORRECTED
 ▶ 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

	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) DCB (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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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)

Forms 1094-C and 1095-C

- ★ Same rules apply for these forms as for the previous forms that we discussed with regards to when to file with the IRS, when to provide copies to the individual and the electronic disclosure rules

Brief Overview of the Cadillac Tax

- ✦ This is a non-deductible 40% excise tax on high-cost health plans
- ✦ It becomes effective in 2018 and applies to health benefits that cost more than \$10,200 for individual coverage or \$27,500 for non-individual coverage
 - > These costs are based on something essentially similar to COBRA premiums
- ✦ There are special rules and adjustments for retirees and certain other groups
- ✦ The amounts are indexed but at an amount that is LESS THAN medical inflation

Cadillac Tax

- ✦ This is the least popular provision in ACA
- ✦ IRS issued Notice 2015-16 that gives us a first glimpse on the possible guidance for the rule
- ✦ This Notice asks for comments on the types of coverages that should be subject to the tax
- ✦ A second notice will be issued, likely this summer, that addresses the calculation of the coverages and the assessment of the tax

Brief Overview of the Cadillac Tax

- ◆ Included is group health plan coverage—major medical, Health FSAs, employer and employee pre-tax contributions to HSAs, governmental plans, on-site medical clinics, retiree coverage, multiemployer plans...
- ◆ IRS indicates that executive physical programs and HRAs will be included
- ◆ Insured limited-scope vision and dental are excluded and likely—but not certain—self-insured limited-scope dental and vision will also be excluded
- ◆ Likely will exclude on-site medical clinics that offer ONLY de minimis medical care

Cadillac Tax—Determination of Cost of Applicable Coverage

- ★ The Tax is imposed on the excess of the aggregate cost of the applicable coverage over the applicable dollar limit—but need to know how to calculate the aggregate cost
- ★ Costs need to be calculated under rules similar to the rules for calculating COBRA premiums – A LOT of time spent on this in the IRS Notice

Cadillac Tax—Determination of Cost of Applicable Coverage

- ✦ Based on the average cost of the type of applicable coverage for that employee and all similarly situated employees
 - > Start with all employees covered by a particular benefit package (such as HMO or PPO) and then subdivide that group based on mandatory disaggregation rules and then allow for further subdivisions of the group based on permissive disaggregation
 - > These same rules may also become the COBRA rules

Cadillac Tax—Determining the Applicable Dollar Limit

- ✦ There are different limits for individual-only or non-individual-only coverage
 - > What if have individual-only coverage plus an HRA that is non-individual-only coverage
- ✦ How determine the adjustments for retirees, high risk professions and the age and gender characteristics of the employer's workforce

Brief Overview of the Cadillac Tax

- ✦ To postpone the application of this Tax, an employer may consider eliminating Health FSAs and not making contributions to an HSA and stopping pre-tax contributions to the HSA
- ✦ Increase cost sharing
- ✦ Narrow networks
- ✦ Reference based pricing

Contact

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