

# EMPLOYER REPORTING on Forms 1095-B and 1095-C

## Under the Affordable Care Act

In March the IRS released final regulations concerning the information returns required to be filed by employers under the Affordable Care Act. **Copies of the actual forms have not yet been released by the IRS.** This article is intended to be a broad discussion of some of the generally applicable regulatory requirements.

### What is the first date that these forms must be filed?

The forms must be filed for the first time early in 2016 for the 2015 calendar year. As with Form W-2, copies of the forms must be provided to individuals by January 31. The forms must be filed with the IRS by February 28 if reporting on paper or by March 31 if reporting electronically.

### Who files Form 1095-B?

If your company sponsors an insured plan, the insurance company is required to file Form 1095-B. If your company's medical coverage is self-insured, the plan sponsor is required to file Form 1095-B. If a plan sponsor of a self-insured plan is also required to file Form 1095-C, the Form 1095-B and Form 1095-C information can be combined onto one Form 1095-C filing.

### What does Form 1095-B report?

Form 1095-B reports the name, address and social security number of all individuals (employees, spouses, dependents and others) who are covered under an employer's medical plan and the number of months during which the individual had at least one day of coverage.

### What will the IRS do with the information reported on Form 1095-B?

Beginning in 2014, individuals are required to be covered by health coverage that provides "minimum essential benefits" or else pay a penalty tax. The IRS will use the information provided by Form 1095-B to verify which individuals have such coverage through an employer and are therefore not subject to the individual mandate penalty tax.

### If my company has fewer than 50 full time employees, must Form 1095-B still be filed?

Yes. This filing requirement applies to all employers who provide health coverage to their employees.

## **What Form 1095-B filing requirements apply to FSAs, HSAs or HRAs?**

FSAs, HSAs and HRAs are not subject to the Form 1095-B filing requirement (because they do not provide Minimum Essential Benefits and therefore by themselves do not relieve the employee from the individual mandate penalty tax).

## **Who files Form 1095-C?**

Sponsors of both self-insured plans and insured plans must file Form 1095-C. Even though the first filing date for this form isn't until January of 2016, employers may want to take steps by the end of 2014 to set up procedures for gathering the necessary data or to contact their payroll service to determine whether the payroll service will have the capability to provide this reporting

## **What does Form 1095-C report?**

An employer filing Form 1095-C generally reports the number of full time employees for each calendar month and lists coverage information for each full time employee. Streamlined reporting methods are available if employers meet certain coverage standards, such as providing coverage to at least 98% of all employees (full time and part time).

## **What will the IRS do with the information reported on Form 1095-C?**

In 2015, most employers with 100 or more (50 or more beginning in 2016) full time employees must provide affordable coverage that provides at least a minimum level of benefits to 70% (95% beginning in 2016) of their full time employees or be subject to penalty taxes for employees who receive subsidized coverage on a public insurance marketplace. The IRS will use the information reported on Form 1095-C to determine whether a penalty tax is to be assessed. The Form 1095-C will also be used to determine whether an employee is eligible for premium tax credits if the employee purchases coverage on the public insurance marketplace.

## **If my company has fewer than 50 full time employees must Form 1095-C still be filed?**

No. Only employers subject to the "play or pay" penalty must file Form 1095-C. However, even though companies subject to the transitional rule for 2015 (more than 50 full time employees but fewer than 100 full time employees) will not be subject to the "play-or-pay" penalty for 2015, they still will be required to file Form 1095-C for 2015.

## **What Form 1095-C filing requirements apply to FSAs, HSAs or HRAs?**

Basically, none. Some employer contributions to an FSA, HSA or HRA can, in certain circumstances, count toward the calculation of minimum value and therefore may affect how the Form 1095-C is completed. However, these situations are rare.