

EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION ALERT

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DRAFT FORMS RELEASED FOR THE AFFORDABLE CARE ACT'S HEALTH COVERAGE REPORTING REQUIREMENTS

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The Affordable Care Act (ACA) imposes new reporting requirements on employers and insurance companies offering health coverage. Last week, the IRS released drafts of the four forms that will be used by employers and insurers to make these reports beginning in early 2016 for the 2015 calendar year.

For purposes of enforcing the individual mandate, employers (regardless of their size) that sponsor self-insured health plans and insurers are required by Section 6055 of the Internal Revenue Code (the Code) to report on the individuals who are covered by their health plans. These plan sponsors/insurance carriers will provide each primary insured with the new **Form 1095-B** that will indicate the months during the calendar year that the insured and his or her family members had coverage under the plan. The plan sponsor/insurance carrier will also be required to transmit all Form 1095-Bs in one package to the IRS, with **Form 1094-B** as the transmittal "cover page."

To enforce the employer mandate, applicable large employers (ALEs) – that is, employers with more than 50 full-time employees, including full-time equivalent employees – are required by Code Section 6056 to report whether or not they offered health coverage to their employees, and will use **Form 1095-C** for these purposes. The ALE will provide each full-time employee with the Form 1095-C. This form asks ALEs to include information such as whether the employee was offered coverage and for which months and the employee's share of the lowest cost monthly premium for self-only "minimum value" coverage. The ALE submits all Form 1095-Cs in one package accompanied by **Form 1094-C** to the IRS. In addition to being the transmittal form for the Form 1095-Cs, Form 1094-C requests information on which other entities are part of the ALE's "Aggregated ALE Group."

If a large employer maintains a self-insured health plan, the employer will not be required to submit both a Form 1095-B and a Form 1095-C. Rather, the large employer with a self-insured plan will only be required to submit Form 1095-C, as the information in Form 1095-B can be included in Form 1095-C.

Comments on these forms can be [submitted to the IRS here](#). Because these forms are drafts only, it is possible that the forms will undergo changes before being finalized by the end of 2014. Additionally, draft instructions for these forms have not yet been released, and are expected to be published in August.

As you prepare for 2015, these draft forms can serve as a guide to help you put the proper systems in place to track the required information and generate the required reports. Please contact one of Venable's employee benefits attorneys with any questions you may have about preparing for these reporting requirements.

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