



Benefits Administration Letter

Number: 14-207

Date: October 3, 2014

Subject: Employer Shared Responsibilities under Internal Revenue Code Section 6056

Background

As specified in P.L. 111-148, applicable large employers need to report information on their employees' access to health coverage to the Internal Revenue Service (IRS) annually. Applicable large employers are also required to furnish this information to each full-time employee. These reporting requirements, under Internal Revenue Code (IRC) section 6056, go into effect for plan year 2015, with information due to the IRS and provided to full-time employees in early 2016. As part of OPM's role as administrator of the Federal Employees Health Benefits (FEHB) Program, OPM is providing guidance to facilitate compliance with IRC section 6056.

Purpose

This Benefits Administration Letter (BAL) provides a framework for reporting and additional information to assist you in complying with IRC section 6056 for purposes of the FEHB Program.

Applicable Large Employer and Applicable Large Employer Member

Under IRC sections 6056 and 4980H, an employer with 50 or more full-time employees is considered an Applicable Large Employer (ALE) and is subject to these provisions. Full-time employees are defined here as those with at least 30 hours of service per week or 130 hours of service per month. An ALE can be made up of related entities, called ALE members. ALE members are the entities responsible for reporting under IRC section 6056 and responsible for any employer shared responsibility payments owed. Any shared responsibility payment is made by the ALE member to the Federal Treasury.

To ease compliance with IRC section 6056, OPM is providing a definition of the ALE and ALE member within the scope of its role as administrator of the FEHB Program.

ALE: The ALE is the group of civilian, non-Postal, executive agencies that are permitted by statute to participate in the FEHB Program.

ALE Member: ALE members are Cabinet level Departments, independent agencies, boards and commissions that make up the ALE.

Following these definitions, each Cabinet level Department, independent agency, board and commission is responsible for reporting the required information on its full-time employees to the IRS and reporting necessary information to full-time employees. OPM has been meeting with shared service centers and payroll providers on the elements needed to collect and report on these requirements for the FEHB Program.

Note: All employers with at least 50 full-time employees must provide these reports, so agencies that are not listed in the definition of ALE above but meet the large employer definition (i.e., 50 or more full-time employees) should also prepare to implement reporting operations. These include, but are not limited to, the Legislative Branch and the Judicial Branch.

Required Deadlines and Voluntary Reporting

ALE members are required to report information from plan year 2015 to the IRS by no later than February 29, 2016 or March 31, 2016 if filed electronically. ALE members are required to furnish employee statements by February 1, 2016. Voluntary reporting is also available for plan year 2014.

At the bottom of this BAL, we have included links to applicable IRS guidance, as well as a link to the Government Manual, that details which entities comprise the Executive Branch as a reference if required.

Method for Determining Full-Time Employees

To comply with IRC section 6056, the ALE member must report information on all full-time employees to the IRS annually. For purposes of IRC section 6056, all employees with 30 or more hours of service per week or 130 hours of service per month, are considered full-time employees. The IRS guidance provides two methods for determining full-time employee status, the Monthly Measurement Method and the Look-back Measurement Method. The IRS requires the ALE member use a consistent of method for each category of employee.

OPM is strongly recommending that ALE members utilize the monthly measurement method to determine full-time employees for all categories of employees. We request that you work with your shared service centers and payroll providers to fulfill the reporting requirements using the monthly measurement method.

Please see the attached guidance on the monthly measurement method.

IRS Guidance

We also encourage you to review the IRS guidance on this issue.

Questions and answers: <http://www.irs.gov/uac/Questions-and-Answers-on-Reporting-of-Offer-of-Health-Insurance-Coverage-by-Employers-Section-6056>

Final regulation: <https://www.federalregister.gov/articles/2014/03/10/2014-05050/information-reporting-by-applicable-large-employers-on-health-insurance-coverage-offered-under>

Draft instructions: <http://www.irs.gov/pub/irs-dft/i109495c--dft.pdf>

Draft forms:

Form 1094-C used to report to the IRS summary information for each employer and to transmit Forms 1095-C to the IRS.

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

Form 1095-C used to report information about each employee.

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

Government Manual: <http://www.usgovernmentmanual.gov>

OPM will provide additional information and guidance on employer shared responsibility reporting as we work to assist agencies and their shared service providers to provide the required IRS reporting.

If you have any questions regarding this Benefits Administration Letter please contact Rachel Royster at 202.606.4181 or Rachel.Royster@opm.gov.

Sincerely,

John O'Brien
Director

Attachment

Attachment

Monthly Measurement Method

OPM has been working with OMB, Treasury and IRS to provide guidance to agencies on the reporting requirements of Section 6056¹ of the Internal Revenue Code. OPM has also been working with shared service centers and payroll providers on the elements needed to collect and report on these requirements for the FEHB Program.

Draft Forms 1094-C and 1095-C have been recently released by the IRS to identify the data elements that will be required for reporting purposes. At the heart of these required data elements are the employee's full-time status and the methodologies available to Applicable Large Employers (ALE)² to determine their employees' status. For purposes of reporting on FEHB eligibility, the ALE is defined as the civilian, non-Postal, executive agencies that are permitted by statute to participate in the FEHB Program. The IRS regulations include aggregation rules allowing an ALE to be made up of related entities, called ALE members. OPM has defined ALE members as Cabinet level Departments, independent agencies, boards and commissions.

The IRS has designated two methods: the Monthly Measurement Method and the Look-back Measurement Method to determine employees' full-time status. OPM strongly recommends that ALE members utilize the Monthly Measurement Method to determine their employees' full-time status. This document is intended to provide ALE members with information on the Monthly Measurement Method. It does not prescribe to explain the intricacies and impacts to any assessable payment penalties under Section 4980H(a) and 4980H(b) that may result from 6056 reporting. It is the responsibility of ALE members to understand and comply with The Affordable Care Act.

Monthly Calculation Option

The monthly measurement method is a straight forward calculation where the employee's full-time status is determined by the number of hours of service³ during a calendar month. If an employee has 130 or more hours of service during a calendar month, they are considered a full-time employee for that calendar month.

***Example 1:** Employee A works 130 hours or more in January 2015, Employee A is designated and reported as full-time for January 2015.*

Weekly Calculation Option

The monthly measurement method also allows employers to determine an employee's full-time status based on the hours of service over successive weeks. Known as the weekly rule, it was designed to provide additional flexibility and reduce administrative burden for employers. Under the weekly rule, an employee's status is based on the number of service hours over a four (4) or five (5) week⁴ period, depending on the month. For each calendar month, at the employer's discretion, the measurement of hours will include either the week containing the first

1 http://www.irs.gov/irb/2014-13_IRB/ar09.html

2 <http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf> - § 54.4980H-1 Definitions (a)(4)

3 <http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf> § 54.4980H-1 Definitions (a)(24)

4 <http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf> - § 54.4980H-1 Definitions (a)(50)

day of the month or the week containing the last day of the month, but not both⁵. For months, that contain four (4) successive weeks, an employee is considered full-time if they have 120 or more hours of service. For months containing five (5) successive weeks, an employee is considered full-time if they have 150 or more hours of service.

Example 2: To determine the full-time status of Employee B for the month of July 2015, an employer would count the hours worked based on the options shown in Table 1 below. Because there are only four (4) weeks in July 2015, an employee is considered full-time only if they have 120 or more service hours.

Table 1: Monthly Measurement Method – Weekly Rule – 4 Successive Weeks

| Option 1: First-day of the Month | | Option 2: Last-day of the Month | |
|----------------------------------|-------|---------------------------------|-------|
| Week | Hours | Week | Hours |
| Week 1: 06/28/15 to 07/04/15 | 30 | Week 1: 07/05/15 to 07/11/15 | 30 |
| Week 2: 07/05/15 to 07/11/15 | 30 | Week 2: 07/12/15 to 07/18/15 | 30 |
| Week 3: 07/12/15 to 07/18/15 | 30 | Week 3: 07/19/15 to 07/25/15 | 30 |
| Week 4: 07/19/15 to 07/25/15 | 30 | Week 4: 07/26/15 to 08/01/15 | 30 |
| Total | 120 | Total | 120 |

Example 3: To determine the full-time status of Employee C for the month of August 2015, an employer would count the hours work based on the options shown in Table 2 below. Because there are five (5) weeks in August 2015, an employee is considered full-time only if they have 150 or more service hours.

Table 2: Monthly Measurement Method – Weekly Rule – 5 Successive Weeks

| Option 1: First-day of the Month | | Option 2: Last-day of the Month | |
|----------------------------------|-------|---------------------------------|-------|
| Week | Hours | Week | Hours |
| Week 1: 07/26/15 to 08/01/15 | 30 | Week 1: 08/02/15 to 08/08/15 | 30 |
| Week 2: 08/02/15 to 08/08/15 | 30 | Week 2: 08/09/15 to 08/15/15 | 30 |
| Week 3: 08/09/15 to 08/15/15 | 30 | Week 3: 08/16/15 to 08/22/15 | 30 |
| Week 4: 08/16/15 to 08/22/15 | 30 | Week 4: 08/23/15 to 08/29/15 | 30 |
| Week 5: 08/23/15 to 08/29/15 | 30 | Week 5: 08/30/15 to 09/05/15 | 30 |
| Total | 150 | Total | 150 |

⁵ <http://www.gpo.gov/fdsys/pkg/FR-2014-02-12/pdf/2014-03082.pdf> - § 54.4980H-3 Determining full-time employees (c)(3)