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No Rest for the Weary:
Preparing for 2016 ACA Reporting

Although the dust has hardly settled on the 2015 Affordable Care Act (ACA) reporting campaign, there’s a new battle to prepare for: 2016 ACA reporting.

The IRS has released draft versions of the forms and instructions most relevant to employers. The new forms include a few tweaks from the 2015 forms and some tweaks designed to draw employers’ attention to frequent mistakes the IRS noticed in filings for 2015.

*Lockton comment:* We invite you to register for our Oct. 20, 2016, webcast: *Getting Ready for 2016 ACA Reporting: Because Some Things Are Too Much Fun to Do Only Once.*

First Things First – Important Transition Relief Expires

Employers enjoyed special relief from aspects of the ACA’s employer mandate for the 2015 reporting year. Some relief depended on the employer’s size, and some was claimed on the employer’s 2015 ACA filings. The transition relief included:

- A softening from 95 to 70 percent of the portion of the employer’s full-time employees (FTEs) to whom a coverage offer must be made, to avoid the worst of the ACA’s potential penalties.
- An exemption from the employer mandate for employers with between 50-99 FTEs/full-time equivalent employees in the controlled group or affiliated service group during the prior year (ACA reporting was still required).

This transition relief expires for 2016 reporting, although for qualifying employers with non-calendar year plans the relief can linger to the first day of the plan year beginning in 2016.
**Lockton comment:** The employer mandate obligation applies on a month-by-month basis. So, for example, an employer sponsoring a health plan with a plan year beginning July 1, and qualifying for non-calendar year plan transition relief, need merely meet the 70 percent test for the months from January through June, 2016. The 95 percent test won’t apply until July 2016.

Employers with employees offered benefits through a union-sponsored plan continue through 2016 to enjoy the transition relief under which the employers can take credit against their employer mandate obligation for adequate coverage offered through the union-sponsored plan.

**2016 ACA Reporting: The Draft Forms and Instructions**

Employers will continue to use Forms 1095-C and 1094-C for 2016 employer reporting. The 2016 draft forms and instructions reflect a few minor tweaks, including specific dos and don’ts, which are described below.

**Definitely Do This**

- Determine the number of ACA FTEs by referencing the ACA’s “30 hours per week” standard, not by reference to some other standard.

- If the employer is a member of a controlled or affiliated service group subject to ACA reporting, ensure each employer (each EIN) files its own Forms 1095-C and 1094-C.

- Employers that are part of a controlled or affiliated service group complete Part IV of Form 1094-C, in which the employers identify the names and EINs of their corporate siblings. *Ensure these names and EINs are accurate.*

- Designate only one Form 1094-C as the employer’s “authoritative transmittal,” if the employer files more than one such form.

  **Lockton comment:** The authoritative transmittal is the Form 1094-C the employer completes beyond Part I. Most employers file a single 1094-C to accompany all their Forms 1095-C. Some larger employers, however, send their Forms 1095-C to the IRS in batches. Each batch is accompanied by a Form 1094-C, but only one of those 1094-Cs should be completed beyond Part I.

- When reporting self-insured coverage for an employee and dependents in Part III of Form 1095-C, list the employee first, followed by covered family members.

- When reporting the cost of employee-only coverage under the least expensive coverage option, on line 15 of Form 1095-C, adjust the employee’s premium cost to reflect, where applicable, certain wellness incentives, opt-out incentives, health reimbursement arrangement (HRA) contributions and flex credits. Read more.

- Offer coverage to FTEs at least once per plan year, to avoid potential penalties. The
plan year should be 12 consecutive months, unless there’s a legitimate short plan year.

**Don’t Do This**

- Employers that are part of a controlled group or affiliated service group should not list themselves in Part IV of Form 1094-C, whether they identify the names and EINs of their corporate siblings or not.

- When completing line 14 on an employee’s Form 1095-C, don’t fail to leave any month unaccounted for.

- Don’t use code 1G on line 14 of Form 1095-C if the employee was an ACA FTE for at least a month during the reporting year, because that code is to be used only if the person was not a FTE for *any* month.

- Don’t report to the IRS that you offered coverage to an FTE and his or her children to age 26 if the coverage offer is limited to a finite number of children (e.g., the employer offers coverage to employees and up to two children).

**Other Odds and Ends**

When selecting a coverage offer code for line 14, the employer has a pair of two new codes to choose from: codes 1J and 1K, to be used where the employer offers coverage to spouses on a conditional basis, such as on the condition that they are not eligible for coverage through another employer.

Employers will report HRA coverage in Part III of Form 1095-C under the same rules that applied for 2015. Basically, if the HRA is the only medical coverage the employer supplies to the employee, it is reported. If it merely supplements other insured or self-insured medical coverage provided by the employer, it does not need to be reported.

The draft instructions clarify a question many employers had about reporting “qualifying offers” on Form 1095-C. Many employers used the qualifying offer method of offering coverage, and thereby avoided the need to report the cost of coverage on line 15 of Form 1095-C.

**Lockton Comment:** A qualifying offer is an offer of at least minimum value coverage to the employee, at a cost of no more than 9.66 percent (for 2016) of the mainland poverty level, and an offer of at least minimum *essential* coverage to the spouse and children to age 26.

Employers reported the qualifying offer on line 14 using code 1A. Where the employee accepted the offer, of course, the employer reported code 2C on line 16. But where the employee declined the coverage offer, employers wondered whether they were required to use the “poverty level safe harbor” code (2G) on line 16, even though code 1A on line 14 implies the employer has met the poverty level safe harbor. The IRS says an employer *may*, but is *not required*, to use code 2G on line 16 in that case.
The draft instructions continue to struggle just a bit with explaining how to report COBRA coverage offers. We will delve into that irksome issue in our Oct. 20 webcast.

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