

Health Reform Update

ACA Is Here to Stay: It's Business as Usual for 2015 and Beyond

Sponsored by:

The Massachusetts Health Connector

Springfield Marriott

Springfield, MA
October 8, 2015

Newton Marriott

Newton, MA
October 26, 2015

Beechwood Hotel

Worcester, MA
October 29, 2015

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Today's Agenda

- ◆ **Brief Overview**
- ◆ **Reporting Clarifications from Final 2015 Instructions**
- ◆ **Cadillac Tax Update**
- ◆ **Opt Out Programs**
- ◆ **100 Life Small Group**
- ◆ **Misc. Issues**
- ◆ **Questions**



Employer Reporting for 2015



The Map for ESR Compliance

- ◆ **Determine Applicable Large Employer (ALE) each year**
- ◆ **If an ALE, determine the date any ESR penalties may first become effective**
 - ▶ **One or More Transition Rules may Apply**
- ◆ **Identify full-time EEs who must be offered coverage to avoid penalties**
- ◆ **Determine full-time EE contribution needed to meet affordability standards**
- ◆ **Plan documentation reflecting FT EE eligibility**



Section 6055/6056 Employer information reporting

Two Methods to Determine FT Status

- ◆ **There are two methods for determining full-time employee status—**
 - ▶ **the monthly measurement method (MMM)**
 - ▶ **the look-back measurement method (LBMM)**
- ◆ **These prescribe minimum determination stds.**
- ◆ **May treat additional EEs as eligible**
- ◆ **No special rules for short-term or temporary employees or interns**



Employer Information Reporting



- ◆ **Information Reporting is HERE**
 - ▶ **IRS has released final 2015 Forms/instructions**
 - Forms 1094 and 1095
 - ▶ **6055 – Information Reporting of Minimum Essential Coverage -- The “B” Forms**
 - ▶ **6056 - Information Reporting by Applicable Large Employers on Health Insurance Coverage – The “C” Forms**
- ◆ **Focus on tracking offers and coverage, rather than tracking hours**
- ◆ **Reminder: Reporting done on a calendar year basis**
 - ▶ **Even if GHP is not CY or if GHP is in a transition relief period** ⁵

Reporting Overview: Two Reporting Requirements



B Forms

C Forms

	Minimum Essential Coverage Reporting Under Code § 6055	Applicable Large Employer Reporting Under Code § 6056
Purpose	Verification of the individual mandate	Employer penalties and eligibility for premium tax credits
Who is responsible?	All sponsors of minimum essential coverage (includes employers, multiemployer plans, association plans, insurance carriers)	Large employers only (50+ FTEs)
When is reporting due?	By March 31 (when filed electronically)	By March 31 (when filed electronically)
Forms for filing Returns	1094-B (transmittal form) and 1095-B	1094-C (transmittal form) and 1095-C
Participant Statement	Must be given to each “responsible individual” (generally the employee) by January 31	Must be given to Full-Time Employees by January 31
Who files?	Self-insured = plan sponsor. Insured = insurance carrier	Employer
NOTES	Reporting for large employers is satisfied by submitting the 1094-C and 1095-C forms.	Simplified reporting alternatives apply to certain employers/groups of employees. The alternative methods generally limit the type or amount of information that appears on the Form 1095-C, but do not relieve the employer from preparing separate returns for each FTE. More guidance is required.

2015 Employer Reporting in a Nutshell



- ★ **Determine the employees who were FT for at least one month in 2015**
- ★ **Prepare a 1095-C for each FT employee with a full 12 month history**
- ★ **Send the employee a copy of his/her 1095-C**
- ★ **Bundle up all 1095-Cs and file with the IRS with a 1094-C Transmittal Form**

Excise Tax Penalty Assessments Enforced by IRS



- ◆ **IRS will use the following as basis for penalty assessments:**
 - ▶ Annual report filed with IRS by each ALE member
 - ▶ **Certification of APTC status filed by Exchange with IRS**
 - ▶ Individual employee income tax returns
- ◆ **IRS contact will not occur until after all information has been reported for the previous year**
- ◆ **IRS will contact employers to inform them of potential liability and a chance to respond**
- ◆ **If determined liable after employer response, IRS will send tax notice and demand for payment – Appeal??**
- ◆ **IRS will not impose a penalty for incorrect reporting for 2015 as long as **the employer files timely** and makes a good faith effort to comply with the reporting requirements**

Oops. No Federal 2015 APTC Notices for Employers



- ◆ **Unnumbered and undated FAQ, issued by CMS on 9/18/15 on the Employer Notice Program**
 - ▶ **ENP is the program where Exchanges notify employers whose employee was determined eligible for an APTC**
 - ▶ **There is an appeal process associated with the notice program**



Frequently Asked Questions Regarding The Federally-Facilitated Marketplace's¹ (FFM) 2016 Employer Notice Program

Q. What is the employer notice program?

The Affordable Care Act and implementing regulations require each Health Insurance Marketplace to notify any employer whose employee was determined eligible for advance premium tax credits (APTC) and cost sharing reductions (CSRs) because the employee attested that he or she was neither enrolled in employer sponsored coverage nor eligible for employer coverage that is affordable and meets the minimum value standard.

Starting in 2016, the FFM will notify certain employers whose employees enrolled in Marketplace coverage with APTC. The FFM will send notices to employers if the employee received APTC for at least one month in 2016 and if the FFM has an address for the employer.

Oops. No Federal 2015 APTC Notices for Employers



- ◆ **No FFM notices will be issued for APTCs granted in 2015**
- ◆ **State based marketplaces (SBMs) have the same flexibility to phase in their notice program**
- ◆ **IRS will independently determine employer liability for ESR penalties without any exchange notice or employer appeal**
- ◆ **Notices from federally facilitated marketplaces (FFM) will be sent in 2016 to employers whose employees qualified for an APTC in 2016 **IF** the employee provided a complete employer address on the exchange application**
 - ▶ **No notice when employee terminates exchange coverage**
- ◆ **Notices will be sent in batches; the first planned for spring 2016 following close of open enrollment**
 - ▶ **Employers can't designate specific address for the notice – it's whatever is supplied by employee**

Calculation of the A Tax Penalty

- ◆ Applicable to an ALE member fails to offer MEC to more than 30% of its full-time employees (5% in 2016) for any calendar month, if the ALE member has **received a Section 1411 Certification** with respect to at least one full-time employee
- ◆ There is imposed on the ALE member for the calendar month an assessable payment equal to the product of
 - ▶ (1) the number of full-time employees of the ALE member, minus
 - Full-time employees in a **limited non-assessment period** and
 - The ALE members allocable share of 80 full-time employees and
 - ▶ (2) the section 4980H(a) applicable payment amount, which is \$167 per month



Calculation of the B Tax Penalty



- ◆ There is imposed on the applicable large employer member an assessable payment equal to the product of
 - ▶ (1) the number of full-time employees of the ALE member **for which it has received a Section 1411 Certification** minus
 - the number of those employees in a **limited non-assessment period** for certain employees and
 - the number of other employees who were offered the opportunity to enroll
 - in minimum essential coverage under an eligible employer-sponsored plan
 - that satisfied minimum value and
 - met one or more of the affordability safe harbors, and
 - ▶ (2) the section 4980H(b) applicable payment amount, which is **\$250 per month**



Clarifications in 2015 Final Instructions for Forms 1095-B and 1095-C

Extensions of Time to File



- ◆ **Timeliness is of the essence to avoid penalties**
 - ▶ **Hence, it is better to extend filing than file late**
- ◆ **6056 Reporting mirrors W-2 and W-3 reporting scheme, but is more complicated**
 - ▶ **ALE members must access and collate info from multiple sources**
- ◆ **The IRS will not impose penalties if ALE members can show good faith compliance efforts**
- ◆ **But this relief is available only where compliance is timely**

Extension of Time to File/Furnish

- ◆ **Automatic 30 day extension of time to file with IRS via Form 8809**
 - ▶ No signature or explanation required
 - ▶ Must file the 8809 by the due date of the returns
 - ▶ May apply for one additional extension of more than 30 days by filing 2nd Form 8809 before end of 1st extension
 - Must show extenuating circumstances that prevented filing by the due date of the first extension. Approvals are NOT automatic

- ◆ **Request for extension to furnish statements to recipients**
 - ▶ NOT automatic; must request by signed letter stating reasons for delay and postmarked by date statements originally due
 - ▶ A maximum of 30 days may be granted if approved



Form 8809 Extension Request



Form **8809**

(Rev. September 2015)
Department of the Treasury
Internal Revenue Service

Application for Extension of Time To File Information Returns

(For Forms W-2, W-2G, 1042-S, **1094-C, 1095-C**, 1097, 1098, 1099, 3921, 3922, 5498, and 8027)

OMB No. 1545-1061

► This form may be filled out online. See *How to file* below.

Do not use this form to request an extension of time to (1) file Form 1040 (use Form 4868), (2) file Form 1042 (use Form 7004), or (3) furnish statements to recipients (see Extensions under part M in the General Instructions for Certain Information Returns).

1 Payer's/filer's Information. Type or print clearly in black ink.

Payer's/filer's name

Address

City State ZIP Code

Contact name Telephone number

Email address

2 Taxpayer Identification number (TIN)
(Enter the payer/filer nine-digit number.
Do not enter hyphens.)

<input type="text"/>								
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3 Check your method of filing information returns (check only one box). Use a separate Form 8809 for each method.

electronic paper

4 If you are requesting an extension for more than one payer/filer, enter the total number of payers/filers and attach a list of names and taxpayer identification numbers. See *How to file* below for details. ►

5 Check this box **only** if you already requested the automatic extension and you now need an **additional** extension. See instructions. ►

6 Check **only** the box(es) that apply. **Do not** enter the number of returns.

Form(s)	✓ here	Form(s)	✓ here	Form(s)	✓ here
W-2	<input type="checkbox"/>	5498	<input type="checkbox"/>	8027	<input type="checkbox"/>
1097, 1098, 1099, 3921, 3922, W-2G	<input type="checkbox"/>	5498-ESA	<input type="checkbox"/>	1094-C, 1095-C	<input type="checkbox"/>
1042-S	<input type="checkbox"/>	5498-SA	<input type="checkbox"/>	1099-B	<input type="checkbox"/>

7 If you checked the box on line 5, state in detail why you need an additional extension of time. You must provide sufficient cause as to why you were not able to file by the date granted by the first extension request. If you need more space, attach additional sheets. Include the payer/filer name and taxpayer identification number on each additional page.

Under penalties of perjury, I declare that I have examined this form, including any accompanying statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature ►

Title ►

Date ►

Waiver From Electronic Filing



- ◆ **File Form 8508 at least 45 days before the due date of the returns**
 - ▶ **Form 8508 not yet updated for Form 1095**
 - ▶ **Cannot apply for more than one tax year at a time**
- ◆ **If approved, any corrections for the same returns are covered**
- ◆ **Failures to file electronically when required to do so -- without approved waiver – subject to \$250 per return penalty**
- ◆ **Principal factor in waiver approval is cost of electronic filing vs. paper filing**

Increased Information Reporting Penalties

◆ Failing to file with IRS or to furnish copies to employees

Penalty	New Amount
Failure to file/furnish generally	\$250
Annual cap on penalties	\$3,000,000
Failure to file/furnish – if corrected within 30 days	\$50
Annual cap on penalties if corrected within 30 days	\$500,000
Failure to file/furnish if corrected by August 1	\$100
Cap on penalties if corrected by August 1	\$1,500,000
Lesser cap for persons with gross receipts of not more than \$5,000,000	\$1,000,000
Lesser cap for persons with gross receipts of not more than \$5,000,000 if corrected within 30 days	\$175,000
Lesser cap for persons with gross receipts of not more than \$5,000,000 if corrected by August 1	\$500,000
Penalty in case of intentional disregard (no cap applies in this case)	\$500



Correcting 1094-C Transmittal



Original Authoritative Form 1094-C	
IF any of the following are incorrect	THEN ...
<p>ALE Member or Designated Government Entity (Name and/or EIN)</p> <p>Total Number of Forms 1095-C filed by and/or on behalf of ALE Member</p> <p>Aggregated Group Membership</p> <p>Certifications of Eligibility</p> <p>Minimum Essential Coverage Indicator</p> <p>Full-Time Employee Count for ALE Member</p> <p>Aggregated Group Indicator</p> <p>Section 4980H Transition Relief Indicator</p>	<ol style="list-style-type: none"> 1. Prepare a new authoritative Form 1094-C 2. Enter an "X" in the "CORRECTED" box at the top of the form 3. Submit the standalone corrected transmittal with the correct information present

- ◆ To file corrections for electronically filed forms, see **IRS Publication 5165**

Correcting 1095-C IRS Paper Submissions



Original Form 1095-C Submitted to IRS and Furnished to Employee	
IF any of the following are incorrect	THEN ...
Name, SSN, Employer EIN	1. Prepare a new Form 1095-C
Offer of Coverage	2. Enter an "X" in the "CORRECTED" box at the top of the form
Premium Amount	3. Submit corrected Form 1095-Cs with a non-authoritative Form 1094-C transmittal to the IRS
Safe Harbor and Other Relief Codes	4. Furnish a corrected Form 1095-C to the employee
Covered Individuals Information	

- ◆ Only enter “X” in the check box when correcting a 1095-C previously filed with the IRS
- ◆ If previously furnished to recipient but not filed with IRS, write “corrected” on the new 1095-C furnished to recipient

New Plan Start Month Indicator Box



- ◆ **New 2-digit box on final 2015 Form 1095-C to insert 2 digit month**
 - ▶ Enter 01 through 12 for month plan year begins
 - ▶ Enter “00” if no health plan offered
 - ▶ If change in PY, enter the earliest month
 - ▶ Optional for 2015 filing; mandatory for 2016
- ◆ **IRS needs this info to enforce APTC rules**
 - ▶ Indexing 9.5% factor (to 9.56%) for APTC is done on basis of plan year, not calendar year
 - ▶ **NOTE: employer safe harbor rules still use 9.5%**

Final 2015 Form 1095-C



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/form1095c

VOID

CORRECTED

OMB No. 1545-2251

2015

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	Plan Start Month (Enter 2-digit number):		Sept	Oct	Nov	Dec	
	June	July	Aug										
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"/>	
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"/>	
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"/>	

The only change from the 2014 Form is the addition of the Plan Start Month indicator and use is **OPTIONAL** for the 2015 filing

Coding for Multiemployer Plan Relief



- ◆ **Prior to this clarification, IRS assumed a healthy level of cooperation between employer and union plan for 1095-C reporting purposes**
- ◆ **New relief for 1095-C reporting involving multiemployer arrangements in 2015**
 - ▶ **Enter Code 1H in line 14 (indicating no offer of coverage)**
 - ▶ **Enter Code 2E in line 16 (indicating employer was required to contribute to a multiemployer plan for the employee that month)**
- ◆ **Code 1H is used regardless of whether union employee was eligible to enroll in union plan**

I 095-C Multiemployer Coding Example



- ◆ Employer relies on the Multiemployer Arrangement Interim Guidance for its union employees.
 - ▶ Employer was required to contribute to a multiemployer plan on behalf of the employee for the months indicated below
- ◆ Reporting code 1H is entered without regard to whether the employee was eligible to enroll in coverage under the multiemployer plan
- ◆ Employee is still treated as being offered MEC coverage under the 70% offer test

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)	1H												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)	2E												

- ◆ The multiemployer plan is responsible for furnishing any I 095-B

I 095-C Multiemployer Coding Example (2)



- ◆ Employer relies on the Multiemployer Arrangement Interim Guidance for its union employees. Employee is hired as FT May 1, 2015
 - ▶ Employer was required to contribute to a multiemployer plan on behalf of the employee for the months indicated below
- ◆ Reporting code 1H is entered without regard to whether the employee was eligible to enroll in coverage under the multiemployer plan
- ◆ Employee is still treated as being offered MEC coverage under the 70% offer test

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)	1H												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)		2A	2A	2A	2A	2E	2E	2E	2E	2E	2E	2E	2E

- ◆ The multiemployer plan is responsible for furnishing any I 095-B

Smoothing of Employee Premiums Reported on 1095-C



- ◆ **Employee's share of lowest cost monthly premium for self-only coverage is reported on Line 15**
- ◆ **To determine monthly contribution, employer may take total employee share for the plan year, divided by number of months in plan year**

Smoothing Example from 2015 Instructions



- ◆ **If the plan year begins January 1**
 - ▶ **Amount to report each month is total annual employee contribution for all 12 months, divided by 12**

- ◆ **If the plan year begins April 1**
 - ▶ **Amount to report for January through March 2015 is total annual employee contribution for plan year ending 3/31/15, divided by 12**
 - ▶ **Amount to report for April through December 2015 is total annual employee contribution for plan year ending 3/31/16, divided by 12**

Coding for Breaks in Service/LoA

- ◆ **ESR break in service rules: require terminated employees to be treated as a continuing employees if hours of service commence again within 13 weeks of the break in service**
- ◆ **2015 Instructions: ESR break rules do not impact the reporting rules**
 - ▶ **Individual is an employee for reporting if not terminated during the break**
- ◆ **An employee on unpaid leave during the break would be treated as an employee for reporting during the break**
- ◆ **A former employee who was terminated during the break would NOT be treated as an employee for reporting during the break**



Recordkeeping Requirements

- ◆ **Keep copies of information returns filed with the IRS**
- ◆ **(or have the ability to reconstruct the data)**
- ◆ **for at least three years, from the due date of the returns**



MEC Reporting for HRAs

- ◆ **Final 6055 (MEC) regulation treated HRAs as supplemental coverage not subject to separate 1095-B MEC reporting**
- ◆ **Draft 1095-B and 1095-C instructions would have required separate MEC reporting for HRAs integrated with fully insured medical plans**
- ◆ **Final 1095-B and 1095-C instructions reversed MEC reporting for integrated HRAs in draft instructions**
- ◆ **Notice 2015-68: IRS intends to propose regulations changing MEC supplemental coverage rules consistent with the final 1095-B and 1095-C instructions**



MEC Reporting for HRAs

- ◆ Two new general reporting rules emerge from Final instructions and Notice 2015-68 where an individual is covered by multiple MEC plans:
 - ◆ **First**, if there is multiple MEC coverages provided by the same provider, then MEC reporting is required for only one of them
 - ◆ **Second**, reporting is not required for MEC coverage for which an individual is eligible **IF** s/he is covered by other MEC coverage for which 6055 reporting is required
 - ▶ For employer-sponsored coverage, this exception applies only if both types of coverage are under group health plans of the same employer
- ◆ These rules apply month by month and individual by individual

MEC Reporting for HRA with Self-Insured Medical Coverage



- ◆ **The employer is required to report the coverage of an individual enrolled in both types of MEC in Part III of Form 1095-C under only one of the arrangements**
 - ▶ **BUT if the individual is covered under both arrangements for some months but retires or otherwise drops major medical coverage and is only covered by the HRA in other months of the year, then the employer must report the HRA coverage as MEC for those other months**
- ◆ **The employer must report the coverage of any individual who is covered by only one arrangement**

MEC Reporting for HRA with Insured Medical Coverage



- ◆ **The employer with an insured major medical plan and an HRA is not required to report HRA coverage of an individual in Part III of Form 1095-C**
 - ▶ **if the individual is eligible for the HRA because the individual enrolled in the insured major medical plan (e.g., an integrated HRA)**
 - ▶ **However, an employer with an HRA must report coverage under the HRA in Part III of Form 1095-C for any individual who is not enrolled in a major medical plan of the ALE Member**
 - **For example if the individual is enrolled in a group health plan of another employer (such as spousal coverage)**

Reminder: HRA Integration Rules When Medical Plan = MV



- ◆ **Employer must offer a GHP to the employee that provides MV**
- ◆ **Employee receiving the HRA must actually be enrolled in a GHP providing MV – the GHP can be the plan of the employer (or it may be that of the employee’s spouse)**
- ◆ **HRA must be available only to employees who are actually enrolled in the GHP coverage, and**
- ◆ **The HRA must provide that an employee (or former employee)**
 - ▶ **is permitted to permanently opt out of and waive future reimbursements from the HRA at least annually, and**
 - ▶ **upon termination of employment, either the remaining amounts in the HRA are forfeited or the employee is permitted to permanently opt out of and waive future reimbursements from the HRA**



Coding for COBRA

Final Instructions: COBRA Offers to Terminated Ees

- ◆ **COBRA offers to terminated employees should not be reported as an offer of coverage on line 14 of Part II, 1095-C**
- ◆ **Code 1H (No offer of coverage) should be entered for any month the COBRA offer applies**
- ◆ **It is assumed that Code 2A (Not employed on any day of the month) would be the explanatory code in line 16**
- ◆ **Code 2B (Coverage ends before last day of month solely due to termination) in line 16 may also apply if termed mid-month**



I 095-C COBRA Example

Term'd Employee Using Instructions



- ◆ Long time employee and family enrolled in MEC health coverage meeting MV terminates employment May 17, 2015. Family COBRA coverage is offered. **TERMINATED EMPLOYEE CODING APPLIES REGARDLESS OF ANY COBRA ENROLLMENT**
- ◆ The single (individual-only) cost for the lowest option is \$105/month, which is Affordable based on Rate of Pay safe harbor.
- ◆ Coverage is fully insured and, had employee not terminated, coverage would have been offered through the end of the month

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)		IE	IE	IE	IE	IH	IH	IH	IH	IH	IH	IH	IH
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$ 105	\$ 105	\$ 105	\$ 105	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)		2C	2C	2C	2C	2B	2A	2A	2A	2A	2A	2A	2A

- ◆ Insurer will do MEC reporting on Form I 095-B.

IRS Q&As:

COBRA Offers to Terminated EEs

- ◆ **COBRA offers to terminated employees are reported as an offer of coverage on line I 4 of Part II, I095-C ONLY IF THE EMPLOYEE ACTUALLY ENROLLS IN COBRA and then only code for the employee**
- ◆ **Code in line I 4 should indicate employee only offer (e.g., Code IB) if only employee enrolls**
- ◆ **If COBRA elected for family members, then indicator code in line I 4 should reflect offer of spouse/dependent coverage (e.g., Code IE)**
- ◆ **If only family members elect COBRA but employee doesn't enroll, dependent coverage of family members should not be reported**
 - ▶ **BUT must report covered family members for MEC purposes**



COBRA Offers to Active Employees

- ◆ **Treatment of COBRA offers to active employees is same in both IRS Final Instructions and IRS Q&As**
- ◆ **COBRA offer to active employee is reported on 1095-C in the same manner and using the same codes as an offer of coverage to any other active employee**
- ◆ **Common example for active employee COBRA is loss of medical plan eligibility due to reduction in hours**



1095-C COBRA Example (I)

Active Employee



- ◆ Employee offered family MEC health coverage meeting MV. Employee enrolls in self-only coverage.
- ◆ Employee transferred to PT position and loses eligibility due to reduced hours on November 1, 2015. Employee is offered and enrolls in self-only COBRA coverage effective November 1, 2015.
- ◆ The single (individual-only) cost for the lowest option is \$105/month, which is Affordable based on Rate of Pay safe harbor. COBRA cost is \$420/month

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)	IE												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 420	\$ 420
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)	2C												

- ◆ Insurer will do MEC reporting on Form 1095-B

1095-C COBRA Example (2)

Active Employee



- ◆ Employee offered family MEC health coverage meeting MV. Employee enrolls in self-only coverage.
- ◆ Employee transferred to PT position and loses eligibility due to reduced hours on November 1, 2015. Employee is offered BUT WAIVES self-only COBRA coverage effective November 1, 2015.
- ◆ The single (individual-only) cost for the lowest option is \$105/month, which is Affordable based on Rate of Pay safe harbor. COBRA cost is \$420/month

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)	IE												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105	\$ 420	\$ 420
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)		2C	2B	2B									

- ◆ Insurer will do MEC reporting on Form 1095-B

MEC Coding by Self-Insured (SI) Plans for Spouses/Dependents

- ◆ **SI ALE should report MEC coverage of each non-employee spouse/dependent who separately elects COBRA coverage on a separate Form 1095-B (or Part III of 1095-C)**
- ◆ **Alternatively, if spouse (or former spouse) or dependent receives COBRA because the employee (or former employee) elected family COBRA**
 - ▶ **Then COBRA coverage of entire family should be reported together on the same Form 1095-B (or Part III of 1095-C provided to the employee/former employee)**



1095-C Divorced Non-Employee Spouse Example -- Part I



- ◆ Keri (employee) & George are married and enrolled in MEC health coverage meeting MV. They divorce on 5/15/15.
- ◆ Coverage is self-insured. George elects the COBRA coverage offered to him and remains enrolled through 12/31. George has separately elected COBRA.

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)	IE												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$ 105	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)	2C												

Part III Covered Individuals																
If Employer provided self-insured coverage, check the box and enter the information for each covered individual. <input checked="" 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	Keri	XXX-XX-XXXX		<input checked="" 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	George	XXX-XX-XXXX		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>						

I 095-C Divorced Non-Employee Spouse Example -- Part II



- ◆ Keri (employee) & George are married and enrolled in MEC health coverage meeting MV. They divorce on 5/15/15.
- ◆ Coverage is self-insured. George elects the COBRA coverage offered to him and remains enrolled through 12/31. George has separately elected COBRA.

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)							IG	IG	IG	IG	IG	IG	IG
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 checked="" 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 George	XXX-XX-XXXX		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>	<input type="checkbox"/>



Form 1095-C Employer Provided Health Insurance Offer and Coverage

Reporting MEC Enrollment Information for Non-Employees



- ◆ **Non-Employees include**
 - ▶ **Retired employee for entire year**
 - ▶ **Employee on COBRA entire year**
 - ▶ **Non-employee COBRA beneficiary**
 - ▶ **Non-employee director**
- ◆ **Insurers report for fully insured plans**
- ◆ **Self-insured employers have 2 choices**
 - ▶ **Use Form 1094-B and 1095-B**
 - ▶ **Use Form 1095-C, Parts I & III, Part II use Code IG**

Form 1095-C, Part III



Used only by ALE members with self-insured plans

Check this box ONLY if using Part III as self – insured employer

Don't Forget This
Part III can be used in lieu of 1095-B to report MEC coverage for individuals who were not an employee for any month of the calendar year. Use Code IG on line 14 in Part II of the 1095-C

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) 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"/>	<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"/>	<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"/>	<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"/>	<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"/>	<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"/>	<input type="checkbox"/>

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 60705M Form 1095-C (2014)

This is the ACA equivalent of the MA Form 1099-HC

Not required for insured coverage, or for any employee who is not enrolled

1095-C Non-Employee Example of MEC Reporting



- ◆ Long time employee enrolled in MEC health coverage meeting MV terminates employment November 17, 2014 and elects the COBRA coverage offered to him.
- ◆ Coverage is self-insured and the individual was covered by COBRA for all of 2015.

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)	IG												
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 checked="" 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 Long Time Employee	XXX-XX-XXXX		<input checked="" 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"/>

Helping Clients Navigate Employer Reporting



- ◆ Engage your clients immediately if you haven't already
- ◆ Employer reporting is complex, more so depending on the employer's employee population and industry
 - ▶ Avoidance/denial is a mistake
- ◆ Help your client to break down the process into pieces
- ◆ Keep in mind that the process should be easier in the future once everyone has done it for 2015
- ◆ Your client should assemble a team and perhaps designate one team member as the reporting czar or QB
- ◆ Administrative responsibility but not legal liability may be delegated – there must be oversight of any 3rd party vendors involved
- ◆ Suggest any vendor data interface with employer be checked ahead of time and sample of ultimate end product reviewed



IRS Notices 2015-16 and 2015-52



Excise Tax on High Cost Employer-Sponsored Health Coverage (a/k/a the Cadillac Plan Tax)

Quick Cadillac Tax Background



- ◆ **Tax added to Code section 4980I by the ACA**
- ◆ **Tax effective for taxable years after 12/31/17**
- ◆ **Tax not deductible for federal income tax purposes**
- ◆ **The aggregate cost of applicable coverage provided to employee exceeding a statutory dollar limit is subject to a 40% excise tax**
- ◆ **Statutory limits for 2018 are \$10,200 for self-only coverage and \$27,500 for coverage that is not self-only**
 - ▶ **Possible one time adjustment to these limits in 2018 if cost growth in a benchmark plan between 2010 and 2018 exceeds 55%**
 - ▶ **Beginning in 2019 the dollar limits will be subject to annual cost of living adjustments**

Quick Cadillac Tax Background



- ◆ **Employer determines the tax on a **calendar** year basis, the tax is accrued on a **monthly** basis and paid **annually****
- ◆ **Liability for the payment of the Tax is allocated based on the type of coverage offered:**
 - ▶ **Health insurers pay the Tax if assessed against an insured plan**
 - ▶ **Employers pay the Tax if assessed against employer contributions to an HSA or an Archer MSA**
 - ▶ **The “person administering the plan” pays the Tax if assessed against any other type of coverage**
- ◆ **Employers are responsible to calculate the Tax and notify the liable entity**

Main Subjects Addressed in Notice 2015-52



- ◆ **Another request for information**
- ◆ **The crux of the Notice is a description of potential approaches to the following issues:**
 - ▶ **Which entities are liable for payment of the excise tax**
 - ▶ **Allocation of the tax among coverage providers**
 - ▶ **How the tax is paid**
 - ▶ **Other issues concerning the cost of applicable coverage**

Who is the “Person that Administers the Plan Benefits”?



- ◆ **The IRS is considering 2 approaches:**
 - ▶ **The TPA that performs “administrative functions” (to be defined) would be the coverage provider**
 - Likely the person performing the day to day administration of plan benefits
 - ▶ **The entity with ultimate responsibility for the plan, as stated in the plan document, would be the coverage provider**
 - Typically **NOT** the person that performs the day to day routine administrative functions
 - This approach would avoid the tax on tax issue

Income Tax on the Excise Tax Where Coverage Provider is Reimbursed by Employer



- ◆ **IRS assumes that any entity that is not the employer will seek reimbursement of the excise tax paid on the employer plans**
- ◆ **Reimbursement of the excise tax is additional taxable income to the entity and the entity may seek reimbursement from the employer for the additional income tax**
- ◆ **IRS may exclude income tax reimbursements from the cost of applicable coverage**
 - ▶ **If separately billed and identified**
- ◆ **Income tax reimbursements for tax on excise tax would use a gross-up calculation**

Other Issues Related to the Cadillac Tax



- ◆ **Determination period to calculate tax**
 - ▶ **Self-insured run-out periods**
 - ▶ **Experience rate insured plans**
- ◆ **Contributions to account-based plans (FSAs, HRAs, HSAs) will be ratably allocated over the months of the year**
 - ▶ **Carryover amounts up to \$500 would be ignored**
 - ▶ **Special rule for flex credits and FSA programs**
- ◆ **Discriminatory self-funded reimbursements under 105(h)**
- ◆ **Employer aggregation issues**

Notice and Payment of the Tax

- ◆ **The Cadillac tax law does not specify the time and manner the excise tax must be paid (really)**
- ◆ **IRS may require the use of Form 720 (also used for the PCORI Fee)**
- ◆ **Although Form 720 is filed quarterly, IRS may designate a particular quarter to be used for the annual filing**





The Four Steps to a Compliant Medical Opt-Out Plan

The 4 Compliance Steps for Medical Opt-Out Plans



Medical opt-out plans must address the following 4 issues:

- ◆ **Section 125**
- ◆ **Medicare Secondary Payer Rules**
- ◆ **Avoidance of Employer Payment Plan status**
- ◆ **ACA affordability**



Opt-Out – Section 125

- ◆ **Opt-out payments are taxable compensation included in gross income**
- ◆ **The choice of cash or coverage is a classic 125 scenario**
- ◆ **1994 IRS TAM 9406002: opt-out must be included in the written 125 plan document**
 - ▶ **Otherwise all employees who elect coverage will be taxed on an amount equal to the opt-out cash available**
- ◆ **Make certain there is a written 125 plan document that includes the opt-out option**
 - ▶ **125 doc should be amended if necessary**

Opt-Out – Medicare Secondary Payer (MSP) Rules



- ◆ For employers of 20 or more the **MSP** rules prohibit employers from offering, subsidizing or incentivizing active employees to leave **GHP** for Medicare
 - ▶ Unless the employee has primary coverage other than Medicare (such as coverage under a spouse's **GHP**)
- ◆ Opt-out payments fall into the incentive category
- ◆ **MSP** rule applies even if offered to all eligible individuals under the **GHP**
- ◆ Violations subject to **\$5,000** penalty for each violation

Suggested Section 125 Provisions to Address MSP Issues

- ◆ **The opt-out provision in the 125 plan should indicate that it is only available “to the extent permitted by applicable law”**
- ◆ **If an active employee eligible for Medicare due to age chooses the opt-out s/he could sign an affidavit that s/he is covered by a spouse’s **GHP** that is primary to Medicare**



Opt-Out – Is it an Employer Payment Plan?



- ◆ **The term “Employer Payment Plan” was created in IRS Notice 2013-54 (DOL TR 2013-03)**
- ◆ **An Employer Payment Plan (EPP) is any arrangement through which an employer pays directly or indirectly, an employee's premiums:**
 - ▶ **for major medical coverage**
 - ▶ **purchased in the individual market (inside or outside an exchange)**
 - ▶ **and/or Medicare Part B or Part D premium**
 - ▶ **no matter how the arrangement is structured or what it is called**



IRS Notice 2015-17

- ◆ **Clarifies the essential theme:**
 - ▶ **Giving employees money to pay for medical insurance coverage purchased in the individual market, or on an exchange is a form of EPP known as a Premium Reimbursement Arrangement, which is a GHP and which violates the ACA market reforms**
 - ▶ **Excise tax penalties under Code section 4980D are \$100 per affected individual per day for failure to comply with the ACA market reforms. (\$36,500 for the year per employee)**

Cash Gross-Ups and Post-Tax Payment Plans



- ◆ **Increasing taxable pay to assist with the cost of health insurance is OK but ONLY IF the employee may use the pay increase for any purpose – no restrictions permitted**
- ◆ **Including premium reimbursements in employee income – essentially making the benefit taxable -- still results in an EPP subject to the ACA market reforms and \$100/day penalty for violations**

Suggested Section 125 Provisions to Address EPP Issues



- ◆ **Suggested disclaimers to clearly distance the opt-out from potential classification as an EPP:**
 - ▶ **The opt-out program is not intended to be a reimbursement benefit of any kind**
 - ▶ **The cash benefit is considered unrestricted cash compensation**
 - ▶ **The cash benefit is not intended for the purchase/reimbursement of any other medical insurance policy (individual or group)**

- ◆ **IF opt-out requires proof of other coverage:**
 - ▶ **Plan should limit the opt-out benefit to those enrolling in other **GHP** coverage only**

Opt-Out – Does it Affect ACA Affordability?



- ◆ **Not yet. Waiting for formal IRS guidance on treatment of opt-out cash to determine affordability for ESR purposes**
- ◆ **November 2014 final individual mandate (ISR) regs provide that “health flex credits” are taken into account to reduce the individual’s “required contribution” for ISR affordability IF the amounts meet 3 conditions:**
 - ▶ **May not be taken as a taxable benefit**
 - ▶ **May be used to pay for MEC; and**
 - ▶ **May be used only to pay for s. 213 medical care expenses**
- ◆ **An IRS official speaking at an August 2015 ABA event (expressing his own views and not that of the IRS) indicated that the ISR approach applies equally to the ESR affordability issue**

Obtaining SSNs for Reporting: 3 Requests; NOT 3 Years

- ◆ Reasonable effort includes 3 requests
 - ▶ An initial and 2 annual requests
- ◆ Initial solicitation at time relationship with payee established
- ◆ 1st annual solicitation required by 12/31 of the year relationship begins
 - ▶ By 1/31 if relationship begins in December
- ◆ 2nd solicitation required by 12/31 of following year





SSN Example I

- ◆ **Employer makes an unsuccessful initial solicitation for a TIN in July 2015**
- ◆ **Must make the first annual solicitation by December 31, 2015**
- ◆ **Second annual solicitation must be made by December 31, 2016, to have acted in a responsible manner**
- ◆ **If still unsuccessful, no penalty if 6055 reporting submitted in early 2017 used DOB in place of a TIN for the individual**

SSN Example 2

(Relationship begins in December)

- ◆ **Employer makes unsuccessful initial solicitation for a TIN in December 2015**
- ◆ **Must make the first annual solicitation by January 31, 2016**
- ◆ **Second annual solicitation must be made by December 31, 2016, to have acted in a responsible manner**
- ◆ **If still unsuccessful, no penalty if 6055 reporting submitted in early 2017 used DOB in place of a TIN for the individual**



100 is NOT the New 50 – PACE Act

- ◆ **Protecting Affordable Coverage for Employees Act of 2015 (PACE Act)**
 - ▶ Signed by the President on 10/7/15
- ◆ **Amends the ACA definition of “small employer” for group health insurance purposes as one with 50 or fewer employees on average in the preceding calendar year**
- ◆ **States may expand the definition of small employer to include companies with 51 – 100 employees if they wish, but are no longer required to do so come 1/1/16**

Questions and Answers



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Series I Codes: Type of Coverage Offer



Series 1 Codes tell the IRS whether coverage was offered and the type of coverage offered

Code	Description of Code
1A	Qualifying Offer: MEC coverage meeting MV and affordability (based on the FPL safe harbor) offered to FT employee; MEC offered to spouse and children
1B*	MEC meeting MV offered to employee only
1C*	MEC meeting MV offered to employee; at least MEC offered to children
1D*	MEC meeting MV offered to employee; at least MEC offered to spouse
1E*	MEC meeting MV offered to employee; at least MEC offered to spouse and children
1F	MEC that is not MV offered to employee and/or spouse and/or children (<60% actuarial value)
1G	Offer of coverage to an employee who was not a FT employee for any month of the CY, AND who was enrolled in self-insured coverage for 1 or more months in the CY
1H	No offer of coverage; not offered any coverage or not offered MEC
1I	Qualifying Offer Transition Relief 2015: Employee (and spouse or children) received no offer of coverage, received an offer that was not qualifying offer, or received a qualifying offer for less than 12 months

***For 1B through 1E, must also fill in line #15. For all other codes on line #14, do not fill in line #15**

Series 2 Codes: 4980H Penalty Defense



Series 2 Codes tell the IRS whether a 4980H Safe Harbor applies

Code	Description of Code
2A	Employee is not employed on any day during the calendar month.
2B	Employee is not a FT employee for the month and did not enroll in MED, if offered for the month; or Employee is a FT employee whose eligibility /coverage ended before last day of month solely due to termination of employment.
2C	Employee is enrolled in the coverage offered by the employer; enter this code regardless of whether any other Safe Harbor code applies (<u>exception</u> : code 2E)
2D	Employee is in section 4980H(b) Limited Non-Assessment Period
2E	Employee is a collectively-bargained employee for whom the multiemployer interim guidance applies generally Taft-Hartley plans
2F	Form W2 Safe Harbor; employee monthly contribution for lowest cost, self-only option providing MV is less than or equal to 9.5% of Form W2 wages for entire CY
2G	Federal Poverty Line Safe Harbor; employee monthly contribution for lowest cost, self-only option providing MV is less than or equal to 9.5% to 1/12 of the mainland FPL for single individual
2H	Rate of Pay Safe Harbor; employee monthly contribution for lowest cost, self-only option providing MV is less than or equal to 9.5% of 130 hours times the employee's hourly rate of pay (or lowest hourly rate of pay during calendar month, if lower)
2I	Non-calendar year transition relief applies

Code 2D

Limited Non-Assessment Periods

- ◆ First Calendar Month of Employment
- ◆ First Year as ALE Period. January through March of the first calendar year in which an employer is an ALE
 - ▶ But only for an employee who was not offered health coverage by the employer at any point during the prior calendar year
 - ▶ If using in 2015, can't be an ALE in 2014 based on 2013
- ◆ Waiting Period under the Monthly Measurement Method
- ◆ Waiting Period under the Look-Back Measurement Method
- ◆ Initial Measurement Period and Associated Administrative Period under the Look-Back Measurement Method
- ◆ Period Following Change in Status that Occurs During Initial Measurement Period Under the Look-Back Measurement Method

All but the first bullet are LNAPs only if MV coverage is offered to the employee by the 1st day of the 1st month following the end of the applicable period

