

# **ALE Regulatory Reporting**

## **Basics of the Employer Shared Responsibility Provisions**

### **Full Time Equivalent Employee**

### **Play or Pay Mandate**

**FTE Calculation in Measurement Periods: Administrative Period, Look Back Period, and Stability Period**

**Transition Relief: Deductible and Minimum Essential Coverage**

**November 1, 2016 | 2:00-3:00 PM**

Champion the Integrity of the Healthcare Dollar by Optimized Efficient Performance Based Outcome | Dedicated to Service | Engage in the Process | Embrace in Proactive Opportunities for Improvement | Execute with Excellence

Political Subdivision Value Based Synergy Managing the Multi-Faceted Solutions to Healthcare Costs and Performance Based Outcome

24/7/365

# Pending Regulatory Compliance Deadlines/ 3-year record retention

## ▶ IEBP Solutions for Regulatory Reporting 6055 and 6056 Calendar Year 2015

- IEBP will purchase, at bulk rates, Individual Transmittals in 10,000 increments. Employer will be billed for the following:
  - Transmittal corrections will be an additional \$0.9130/**\$1.10** fee per employee individual transmittal plus admin fee

Reporting Requirement	2017 IEBP Date	IEBP Greatland Submission Date	2017 IRS Date
Individual Transmittal Mail Date	January 6, 2107	January 30, 2017 Successful transmittal by 8:00 PM ET on the 31 <sup>st</sup>	January 31, 2017
Paper Copies of Form 1095 to IRS	IEBP Bulk Electronic Submission	IEBP Bulk electronic Submission	February 28, 2017
E-file Form 1095 to IRS	February 24, 2017	March 3, 2017	March 31, 2017
Census Count Date	June 30, 2016 50 or more is ALE. <b>Last filing day of prior year 12.31.15</b>		

*If the due date falls on a Saturday, Sunday, or legal holiday, you can provide the copy on the next business day. Last filing deadline of prior year.*

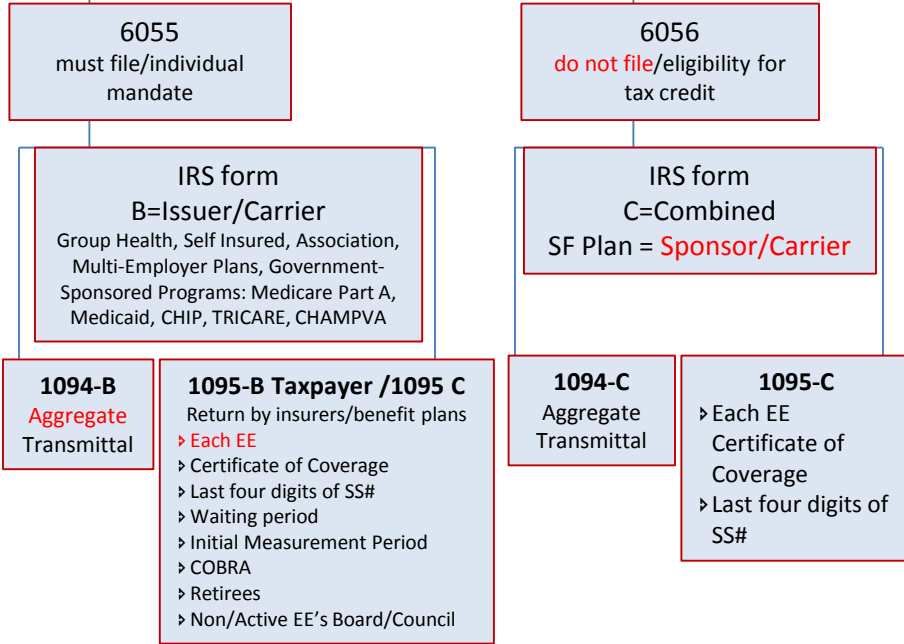
# Minimum Essential Coverage Reporting

Calendar Year 2015: <250 **Paper Filing by Feb.28<sup>th</sup>; Electronic Filing by Mar.31<sup>st</sup>** – excess of 250 must file electronically

95% accuracy - Excess of 13/26 week break in employment new hire;  
 ≥50 W-2 ALE Regulatory Reporting; <50 Non-ALE Regulatory Reporting

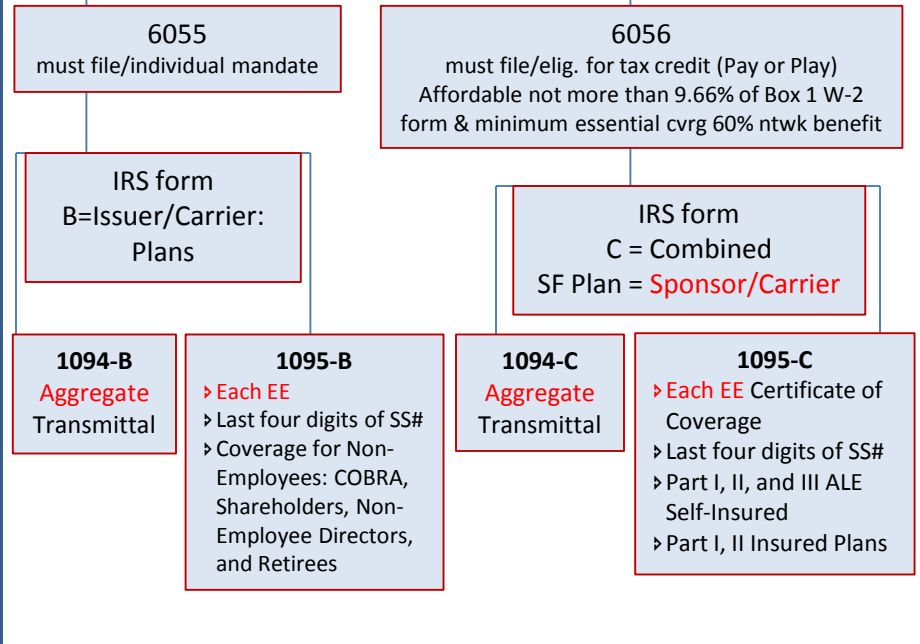
## Small Employers

<50 EEs, 30 hours a week, 130 hours a month,  
 1560 hours a year for the census ALE/Non-ALE FTE count



## Applicable Large Employers ALE

≥50 2015 reporting compliance ≥100 EEs compliance with FTE (30 hours a week, 130 hours a month,  
 1560 hours a year) access to benefit compliance



### For Section 6055 1094-B Aggregate 1095-B Taxpayer:

- Reporting required by anyone that provides minimum essential coverage.
- This report is used to determine months in which an individual is covered by minimum essential coverage. (Section 5000A)

### For Section 6056 1094-C Aggregate 1095-C Taxpayer:

- Information about the employer offering coverage (incl. contact information and # of full-time employees).
- For each full-time **Equivalent** EE, information about the coverage (if any) offered to the EE, by month, incl. the lowest EE cost of self-only coverage offered.
- This report is used to determine an EE's eligibility for premium tax credit. (Section 4980H)

File: Department of Treasury, IRS Center, Austin, TX 73301; Oklahoma- Department of Treasury, IRS Center, Kansas City, MO 64999

Penalties are reported on IRS Form 8928. Reporting penalties under sections 6721 and 6722. Penalty Relief 2015 if good faith effort is documented.

For each full-time EE of an employer, there must be only one Form 1095-C filed for employment with that employer. If EEs work for more than one employer, the EE will have multiple individual transmittals. Form 1094-C for estimated 4 hours; Form 1095-C for estimated 12 minutes (Federal Government Estimate); 9.5% 2015, 9.66% 2016, and 9.69% 2017

# Form Requirements

- ▶ Employers with <50 employees
  - 1094-B Aggregate
  - 1095-B Individual Transmittal
  
- ▶ Employers with  $\geq 50$  or more full-time employees will complete 6056
  - Forms 1094-C Aggregate
  - Forms 1095-C Individual Transmittal

# ALE/Non-ALE Action Steps Aggregating Census Count

## ▶ Basic Steps

- Review aggregating census count rules and identify if or when your employer is ALE or Non-ALE qualified

For purposes of determining whether an employer is an applicable large employer, an employer generally takes into account only work performed in the US.	Must report on <u>retirees who access the self-funded plans and are not enrolled in Medicare</u> ; Medicare Supplemental Programs or Medicare Advantage Plans are not reported
<u>Union employees</u> who are full-time can trigger pay or pay aggregating census count.	Reporting requirements mandated for <u>any months employee was on employer plan</u>
Defined as an employee who works <u>120 hours per month for consecutive six month period to determine number of employees</u> ( <u>Part-Time hours accumulate to FTE's</u> )	<u>Surviving spouses</u> will be reported if their coverage was not related to their spouse's active employment for one or more months in a calendar year.
<u>12.6.15: Debate if COBRA and Worker's Comp employees count toward aggregating census (Outstanding)</u>	<u>Spouses of Retirees who are not eligible for Medicare A and/or B that are enrolled</u> must be reported.
Employers are not required to count employees covered by TRICARE or VETS in determining if they are an Applicable Large Employer (ALE) under the Affordable Care Act (ACA).	

# Basics of the Employer Shared Responsibility Provisions

## ▶ Applicable Large Employer

- $\geq$  to 50 equivalent full-time employees

## ▶ Employer Shared Responsibility for Insurance Mandate Requirement

- Penalty if at least one of employers full-time employees receives a premium tax credit for purchasing individual coverage on the Insurance Marketplace
  - Regulatory Reporting regarding Individual Transmittal and Aggregate IRS Reporting

## ▶ Insurance Mandate and Individual Penalty

- CY2014 Individual Mandate Tax penalty is \$95 per individual or \$285 per family or 1% of household income
- CY2015 Individual Mandate Tax penalty is \$325 per individual or \$975 per family or 2% of household income

# Basics of the Employer Shared Responsibility Provisions

## ▶ Affordability

- **2015:** No greater than **9.56%** of employee's wages as reported in Box 1 of the W-2 Form for the most cost effective employee only benefit plan option
- **2016:** No greater than **9.66%** of Box 1 of the W-2 Form for the most cost effective employee only benefit plan option
- Rate of Pay Calculation
  - Hourly rate times 130 times 9.66. Example: \$10/hour x 130 = \$1,300 x .0966=\$125.58 month (up to 9.66% of rate of pay)
- Individual Hardship Waivers
  - 2015: Premium paid for most cost effective employee only plan exceeds 8.05%
  - 2016: Awaiting hardship information
  - Federal Poverty Level
    - ▶ 2015: \$92.39 calendar year employee only
    - ▶ 2015: \$93.18 non-calendar year employee only
    - ▶ Awaiting 2016

## ▶ Minimum Essential Benefit

- 4980H(B) Penalty minimum value 60% benefit percentage for network services
- At one time minimum included deductible threshold and this time that is on hold
  - \*\*not excess of \$2,000 individual deductible and \$4,000 family deductible.
- No discrimination rules
- Coverage of dependents to attained age 26
- Ban on rescissions
- Prohibition of Pre-existing coverage
- Prohibition of >90 day waiting period; additional 30 day documented orientation period may be applied

# Basics of the Employer Shared Responsibility Provisions

## ▶ Full-time **Equivalent** Employees and their Dependents

- Employee, biologic, and adoptive children (spouses not mandated)
- Hour of Service Definition
  - Employee is paid
    - ▶ 30 hours a week
    - ▶ 130 hours a month/1560 hours a year
    - ▶ 150 hours a month for a 5 week month
    - ▶ 120 hours a month for a 6 consecutive month period (language for seasonal workers)
  - Period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability, layoff, jury duty, military duty or Family/Medical leave of absence (*Workers' Comp decision is outstanding*))
  - Employees rehired with less than a 13/26 week break in employment – rule of parity is required
  - Interns, volunteers and/or grant compensated employees should be included in count
  - Full-time Equivalency
    - ▶ Counting actual hours of service, use a days worked equivalency, using a weeks-worked equivalency of 40 hours



# Basics of the Employer Shared Responsibility Provisions

## ▶ Equivalent Full-time Employees and their Dependents

### ■ Not FTEs

- Federal or state sponsored volunteers who do not receive compensation except for reimbursement of reasonable expenses and certain reasonable benefits a nominal fees
- Unpaid interns
- Students in federal work-study programs
- Typically: independent contractors, sole proprietors, volunteers, and partners

- Waiting Period cannot be in excess of 90 days unless documented 30 day orientation period

## ▶ Transitional Relief for Penalty Payment

### ■ Offer Coverage to

- 2015: 70% of Equivalent Full-time Employees
- 2016: 95% of Equivalent Full-time Employees

### ■ Penalty Calculation

- 2015: 80 Deductible
- 2016: 30 Deductible

# ALE/Non-ALE Action Steps

## ▶ Reporting Time Measurement Periods

- Administrative Period of no more than 90 calendar days between the end of the Measurement Period and the start of the Stability Period
  - 6/9/12 Months
- Look-Back Measurement Period is a review of positions that meet the FTE definition. Define a standard Measurement Period not less than 3 months, not more than 12 months.
  - 3/6/12 Months
- Stability Period must be at least 6 consecutive calendar months. Stability Period may not be shorter than the Measurement Period.
  - Stability Period 6-12 months
  - No more than 90 days between the end of the Measurement Period and the start of the Stability Period

# ALE/Non-ALE Preparatory Steps

## ▶ Basic Steps

- Develop a Regulatory Reporting Strategy
  - Employer Education Meetings
    - ▶ Management Team
    - ▶ Payroll Red Flags
    - ▶ Human Resources FTE Impact
  - Assign personnel accountability for data sources required in the regulatory reporting spreadsheet
  - Determine how the records are going to be maintained and archived for 10 years
  - Identify how to track classification of full-time, part-time, variable, seasonal and grant employees
  - Identify a method to track waiting periods (IEBP requires new hire enrollment forms upon hire. IEBP's system would then track the waiting period information.)
    - ▶ Timely enrollment is critical due to the monthly regulatory documentation requirement
  - Determine how the employee demographic information is going to be most accurate for transmittal distribution
    - ▶ Employers may include an employee's statement with his or her W-2 Form mailing
  - Mandate requires attempt to obtain dependent social security numbers be documented, if no social received , date of birth will be acceptable
  - Determine how to calculate affordability by reviewing lowest paid full-time equivalent and employee out of pocket cost for employee only most cost effective plan
- Benefit Book language should be updated to match access to benefits for ACA definition of benefit eligible full-time equivalent

# Reporting Notification

- ▶ What should the political subdivision do if they receive a notice from the Marketplace stating that an employee received a subsidy for individual health insurance?
  - Mailing of Reporting Notification Notices will begin in June of 2016.
  - The appeal form is a two-page document.
  - Marketplaces are required to send notices to employers regarding employees who purchase coverage through the Marketplace and qualify for a subsidy.
  - Purpose of Notice provision is to ensure that the preliminary subsidy determination by the Marketplace is accurate.
  - The notice will be sent regardless of whether an employer is subject to the play or pay mandate, and are not intended to be an official notification of excise taxes under Internal Revenue Code Section 4980H.

# Reporting Notification

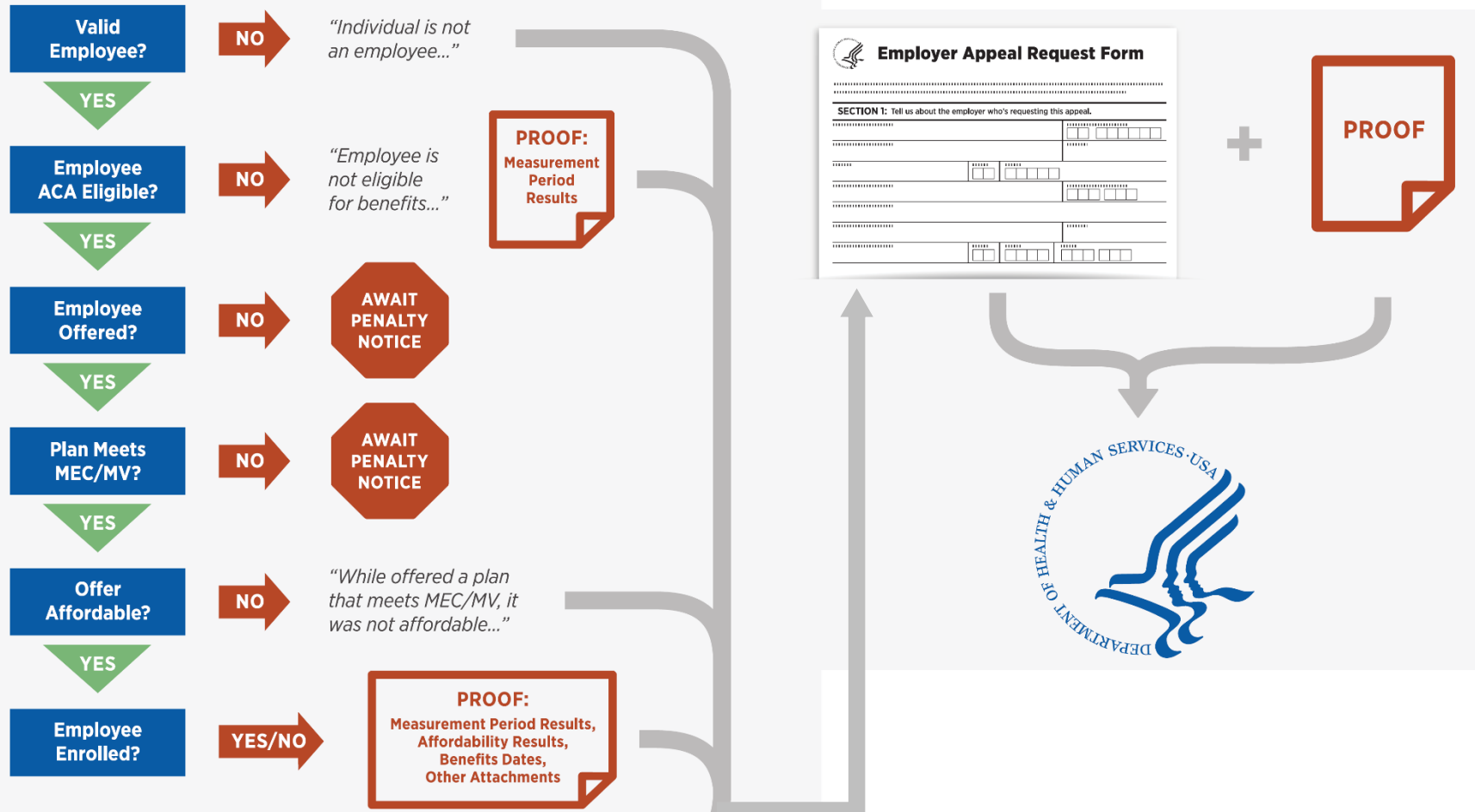
- ▶ What should the political subdivision do if they receive a notice from the Marketplace stating that an employee received a subsidy for individual health insurance?
  - If an employer wants to appeal, they must respond in writing by mail or fax within 90 days from the date the notice was sent.
    - The two-page document requires supporting evidence. This could include eligibility or enrollment information related to the employer's health plan. It might also include evidence that the plan is affordable and provides minimum value.
    - The Exchange will review and must make a decision and send a written notice of its decision on the appeal within 90 days after it receives the appeal.
    - The Exchange will re-determine the employee's eligibility for a subsidy and the employee will have a right to appeal the Exchange's decision.
    - ACA contains a whistleblower provision prohibiting employers from retaliating against an employee because the employee received a Marketplace subsidy.
    - To avoid claims of retaliation, employers may wish to consider establishing a process for handling appeals so that the person handling the appeal has no disciplinary authority.

# Reporting Notification

- ▶ What should the political subdivision do if they receive a notice from the Marketplace stating that an employee received a subsidy for individual health insurance?
  - Employers will be allowed 90 days from the date of the subsidy notice to request an appeal and submit relevant evidence to support the appeal.
  - The Marketplace will accept appeal requests by telephone, mail, via the internet, or in person (if possible) and will provide assistance if requested.
  - Employers should remember, that these notices are NOT an official notification of excise taxes under Internal Revenue Code Section 4980H.
  - This assessment likely would not be received until mid-2016 or later, and the employer could challenge the assessments at that time.
  - An employer choosing not to appeal a Marketplace notice may want to inform the employee it believes he or she should not be receiving a subsidy and should discuss the matter with the Marketplace representative to avoid a possible subsidy payback situation.

# Exchange Subsidy Notice Chart

If your organization receives an exchange subsidy notice, this handy chart can help you determine how to respond, and what information you may need to provide.



# Updated Penalties

A small business (for penalty purposes) is defined as a business with annual gross receipts of \$5 million or less.

Returns Due January 1, 2016 through December 31, 2016	Returns Due January 1, 2017 through December 31, 2017
<b>Failure to File Correct Information Returns by the Due Date</b>	<b>Failure to File Correct Information Returns by the Due Date</b>
\$50 per information return if you correctly file within 30 days; maximum penalty \$529,500 per year (\$185,000 for small businesses)	\$50 per information return if you correctly file within 30 days; maximum penalty \$532,000 per year (\$186,000 for small businesses)
\$100 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$1,589,000 (\$529,500 for small businesses)	\$100 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$1,596,500 (\$532,000 for small businesses)
\$260 per information return if you file after August 1 or you do not file required information returns; maximum penalty \$3,178,500 per year (\$1,059,500 for small businesses)	\$260 per information return if you file after August 1 or you do not file required information returns; maximum penalty \$3,193,000 per year (\$1,064,000 for small businesses)
Intentional disregard of filing requirements—If any failure to file a correct information return is due to intentional disregard of the filing or correct information requirements, the penalty is at least \$520 per information return with no maximum penalty.	Intentional disregard of filing requirements—If any failure to file a correct information return is due to intentional disregard of the filing or correct information requirements, the penalty is at least \$530 per information return with no maximum penalty.
<b>Failure to Furnish Correct Payee Statements</b>	<b>Failure to Furnish Correct Payee Statements</b>
\$50 per information return if you correctly file within 30 days after the required filing date; maximum penalty \$529,500 per year (\$185,000 for small businesses)	\$50 per information return if you correctly file within 30 days after the required filing date; maximum penalty \$532,000 per year (\$186,000 for small businesses)
\$100 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$1,589,000 (\$529,500 for small businesses)	\$100 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$1,596,500 (\$532,000 for small businesses)
\$260 per statement if you file after August 1 or you do not file required information returns; maximum penalty \$3,178,500 per year (\$1,059,500 for small businesses)	\$260 per statement if you file after August 1 or you do not file required information returns; maximum penalty \$3,193,000 per year (\$1,064,000 for small businesses)
Intentional disregard of payee statement requirements—If any failure to provide a correct payee statement is due to intentional disregard of the requirements to furnish a correct payee statement, the penalty is at least \$520 per payee statement with no maximum penalty.	Intentional disregard of payee statement requirements—If any failure to provide a correct payee statement is due to intentional disregard of the requirements to furnish a correct payee statement, the penalty is at least \$530 per payee statement with no maximum penalty.



# Thank You for your Time and Attention!

## Questions and Answers Session

# W-2 Reporting of Employer-Sponsored Health Coverage

- ▶ Reporting is informational only
- ▶ 250 or more Form W-2s
- ▶ Box 12 of the Form W-2 with Code DD to identify the amount
- ▶ An employer is not required to issue a Form W-2 solely to report the value of the health care coverage for retirees or other employees or former employees to whom the employer would not otherwise provide a Form W-2.
- ▶ The chart reviews the reporting requirements for Box 12, Code DD and has no impact on requirements to report these items elsewhere. For example, while contributions to Health Savings Arrangements (H.S.A.) are not to be reported in Box 12, Code DD, certain H.S.A contributions are reported in Box 12, Code W.

# For W-2 Reporting of Employer-Sponsored Health Coverage

Coverage Type	Form W-2, Box 12, Code DD		
	Report	Do not Report	Optional
Major Medical	X		
Dental or Vision plan not integrated into another medical or health plan			X
Dental or Vision plan which gives the choice of declining or electing and paying an additional premium			X
Health Flexible Spending Arrangement (FSA) funded solely by salary-reduction amounts		X	
Health FSA value for the plan year in excess of employee's cafeteria plan salary reductions for all qualified benefits	X		
Health Reimbursement Arrangement (HRA) contribution			X
Health Savings Arrangement (H.S.A.) contributions (employer or employee)		X	
Archer Medical Savings Account (Archer MSA) contributions (employer or employee)		X	
Hospital indemnity or specified illness (insured or self-funded), paid on after-tax basis		X	
Hospital indemnity or specified illness (insured or self-funded), paid through salary reduction (pre-tax) or by employer	X		
Employee Assistance Plan (EAP) providing applicable employer-sponsored healthcare coverage	Required if employer charges a COBRA premium		Optional if employer does not charge a COBRA premium
On-Site medical clinics providing applicable employer-sponsored healthcare coverage	Required if employer charges a COBRA premium		Optional if employer does not charge a COBRA premium
Wellness programs providing applicable employer-sponsored healthcare coverage	Required if employer charges a COBRA premium		Optional if employer does not charge a COBRA premium
Multi-Employer plans			X
Domestic partner coverage included in gross income	X		

# For W-2 Reporting of Employer-Sponsored Health Coverage

Coverage Type	Form W-2, Box 12, Code DD		
	Report	Do not Report	Optional
Governmental plans providing coverage primarily for members of the military and their families		X	
Federally recognized Indian Tribal Government plans and plans of Tribally Chartered Corporations wholly owned by a federally recognized Indian Tribal Government		X	
Self-funded plans not subject to Federal COBRA			X
Accident or disability income			X
Long-term Care		X	
Liability insurance		X	
Supplemental liability insurance		X	
Workers' Compensation		X	
Automobile medical payment insurance		X	
Credit-only insurance		X	
Excess reimbursement to highly compensated individual, included in gross income		X	
Payment/Reimbursement of health insurance premiums for 2% shareholder-employee, included in gross income		X	
Other situations			
Employers required to file fewer than 250 Form W-2s for the preceding calendar year (determined without application of any entity aggregation rules for related employers)			X
Form W-2s furnished to employees who terminate before the end of a calendar year and request, in writing, a Form W-2 before the end of that year			X
Form W-2s provided by third party sick-pay provider to employees of other employers			X

# W-2 Reporting of Employer-Sponsored Health Coverage

## ▶ Related Information

- IR-2011-31: IRS Issues Interim Guidance on Informational Reporting of Employer-Sponsored Health Coverage
- Notice 2010-69: Interim Relief with Respect to Form W-2 Reporting of the Cost of Coverage of Group Health Insurance Under 6051(a) (14)
- Webinar: Reporting of Employer Healthcare Coverage on Form W-2

# 2014/2015 Lessons Learned

- ▶ Insurance Marketplace OIG report finds problems with verifying plan eligibility and data inconsistencies include:
  - Washington states about 1.8 million households that got financial help for health insurance under President Obama's law, have issues with their tax returns that could jeopardize their subsidies next year
    - Social Security numbers were not always validated through the Social Security Administration.
    - Citizenship was not always verified properly.
    - Annual household income was not always verified properly.
    - Family size was not always determined correctly.
    - Inconsistencies related to certain eligibility requirements were not always resolved or expired properly.
    - Applicant data and documentation related to resolving inconsistencies were not always maintained properly.
    - Consumers that received tax credits are required to file tax returns that properly account for them.
      - ▶ About 760,000 households that received tax credits and/or requested tax returns omitted a new form that is the key to accounting for the subsidies called **Form 8962**.
- ▶ The national average was \$272 a month, covering roughly  $\frac{3}{4}$  of the premium.
- ▶ 3Rs
  - Carriers exiting due to only 12.6% Risk Corridor
  - Risk Adjustment 2016: \$1.75 per participant per month transition to \$1.56 PPPP in 2016
  - Reinsurance: Specific, Aggregating Specific, and Aggregate
  - Maryland's health cooperative filed a lawsuit Monday seeking to block the federal government from requiring it to pay more than \$22 million in fees for a program designed to cover insurance company shortfalls.
  - New Mexico Health Connections and Minuteman Health of Massachusetts filed their cases on Friday, July 29, 2016 afternoon, arguing the Obama administration mismanaged the program known as "risk adjustment" by creating an inaccurate formula that overly rewarded big insurers.

# Reporting Extension Requests

## ▶ Extension of Time to Furnish Statements to Recipients

- Form 8809: Thirty (30) day Extension of Time to furnish statement to Recipients:
  - IRS Information Returns Branch, Attn: Extension of Time Coordinator, 240 Murall Drive, Mail Stop 4360, Kearneysville, WV 25430.
  - Must file Form 8809 by the due date of the returns in order to get the 30-day extension.
- The letter must include:
  - (a) filer name
  - (b) filer TIN
  - (c) filer address
  - (d) type of return
  - (e) a statement that extension request is for providing statements to recipients
  - (f) reason for delay
  - (g) the signature of the filer or authorized agent
- Your request must be postmarked by the date on which the statements are due to the recipients. If your request for an extension is approved, generally you will be granted a maximum of thirty (30) extra days to furnish the recipient statements.
- For purposes of requesting an extension of time to furnish the statements, the term filer means the ALE Member or the Designated Government Entity, if applicable.
- The form may be submitted on paper or through the FIRE System either as a fill-in form or an electronic file.
- No signature or explanation is required for the extension.
- Under certain hardship conditions you may apply for an additional 30-day extension.

# Reporting Waiver Request

## ► Waivers

- To receive a waiver from the required filing of information returns electronically, submit **Form 8508**.
- Request for Waiver from filing information returns electronically at least 45 days before the due date of the returns.
- You CANNOT apply for a waiver for more than one tax year at a time.
- If you need a waiver for more than one tax year, you must reply at the appropriate time each year.
- If a waiver for original returns is approved, any corrections to the same types of returns will be covered under the waiver.
- However, if you submit original returns electronically, but you want to submit your corrections on paper, a waiver must be approved by the corrections if you must file 250 or more corrections.
- If you receive an approved waiver, do not send a copy of it to the service center where you file your paper returns.
  - Keep the waiver for your records only.
- If you are required to file electronically, but fail to do so, and you do not have an approved waiver:
  - you may be subject to a penalty of \$250 per return for failure to file electronically unless you established reasonable cause
  - You can file up to 250 returns on paper



# Corrected Returns on Paper Forms

- ▶ A corrected return should be filed as soon as possible after an error is discovered. File the corrected returns as follows:
  - Form 1094-C: If correcting information on the Authoritative Transmittal (identified on Part I, line 19, as the Authoritative Transmittal, which must be filed for each employer reporting aggregate employer-level data for all full-time employees of the employer), file a standalone fully completed Form 1094-C including the correct information and enter an "x" in the CORRECTED checkbox. Do not file a return correcting information on a Form 1094-C that is not the Authoritative Transmittal.
  - Form 1095-C: If correcting information on a Form 1095-C that was previously filed with the IRS, file a fully completed Form 1095-C including the correct information and enter an "x" in the CORRECTED checkbox. File a Form 1094-C Transmittal (DO NOT mark the CORRECTED checkbox on the Form 1094-C) with corrected Form(s) 1095-C.
  - Furnish the employee a copy of the corrected Form 1095-C unless the employer is eligible to use the Qualifying Offer Method or the Qualifying Offer Method Transition Relief for 2015.
  - **Note:** Enter an "x" in the corrected checkbox only when correcting a Form 1095-C previously filed with the IRS. If you are correcting a Form 1095-C that was previously furnished to a recipient, but not filed with the IRS, write CORRECTED on the new Form 1095-C furnished to the recipient.