

IRS ISSUES PROPOSED RULES ON ACA INFORMATION REPORTING

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The IRS recently published proposed regulations relating to information reporting of minimum essential coverage under Internal Revenue Code section 6055. Under the Affordable Care Act (ACA), health insurance issuers (including employers who sponsor self-insured medical plans) must report information to the IRS and covered individuals regarding the type and period of medical coverage provided. Employers sponsoring self-insured medical plans may report this information on section III of form 1095-C. These proposed rules clarify issues related to supplemental and duplicative coverage, as well as, taxpayer identification number (TIN) solicitation requirements. With regard to situations where an employer may be providing coverage to an individual under more than one plan providing minimum essential coverage, reporting is only required for one of the plans. In addition, reporting is not required for coverage that is only available if the individual is enrolled in other reportable coverage sponsored by the same employer. For example, if an employer offers a self-insured major medical plan and an integrated health reimbursement arrangement (HRA), assuming the employee is enrolled in both plans, the employer would not have to separately report the HRA coverage. However, the employer would be required to report the employee's HRA coverage if the employee was enrolled in a different employer's major medical plan (such as a spouse's employer's plan). The proposed regulations also address TIN solicitation issues. As part of the information reporting requirement, a reporting entity must include certain information, such as the individuals' name and TIN. An employer or other reporting entity that does not include this information may be subject to penalties for failure to comply with the IRS filing and statement furnishing requirements. These penalties may be waived if the failure is due to reasonable cause. That is, if the employer demonstrates that it acted in a responsible manner and that the failure is due to significant mitigating factors or events beyond its control. A person will be treated as acting in a responsible manner if the person properly solicits a TIN but does not receive it. Proper solicitation of a TIN involves an initial request and two subsequent annual solicitations. These regulations provide additional guidance regarding the timing and manner of this process.

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