



# ACA COMPLIANCE BULLETIN

## DRAFT FORMS FOR 2019 ACA REPORTING RELEASED

On Nov. 13, 2019, the Internal Revenue Service (IRS) released **draft 2019 forms and instructions** for reporting under Internal Revenue Code (Code) Sections 6055 and 6056.

- ✓ **2019 draft Forms [1094-C](#) and [1095-C](#) (and related draft [instructions](#))** will be used by applicable large employers (ALEs) to report under Section 6056, as well as for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.
- ✓ **2019 draft Forms [1094-B](#) and [1095-B](#) (and related draft [instructions](#))** will be used by entities reporting under Section 6055, including self-insured plan sponsors that are not ALEs.

The draft 2019 forms and instructions are substantially similar to the final 2018 versions. **Note that Section 6055 reporting continues to be required, despite the fact that the individual mandate penalty has been reduced to \$0.**

### ACTION STEPS

Employers should become familiar with these forms for reporting for the 2019 calendar year. However, these forms and instructions are **draft versions only**, and should not be filed with the IRS or relied upon for filing.

### HIGHLIGHTS

- Draft forms and instructions for 2019 reporting under Section 6055 and Section 6056 are now available.
- These draft forms and instructions are substantially similar to the final 2018 versions.
- Section 6055 reporting continues to be required, despite the elimination of the individual mandate penalty.

### IMPORTANT DATES

#### January 31, 2020

Individual statements for 2019 must be furnished by Jan. 31, 2020.

#### February 28, 2020

IRS returns for 2019 must be filed by Feb. 28, 2020 (March 31, 2020, if filed electronically).

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## Background

The Affordable Care Act (ACA) created reporting requirements under Code Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) or provide to their employees. Each reporting entity must annually file all of the following with the IRS:

- ✓ A separate **statement** (Form 1095-B or Form 1095-C) for each individual who is provided with minimum essential coverage (for providers reporting under Section 6055), or for each full-time employee (for ALEs reporting under Section 6056); and
- ✓ A **transmittal form** (Form 1094-B or Form 1094-C) for all of the returns filed for a given calendar year.

Reporting entities must also furnish related statements (Form 1095-B or 1095-C) to individuals.

Forms must generally be filed with the IRS no later than Feb. 28 (March 31, if filed electronically) of the year following the calendar year to which the return relates. Individual statements must be furnished to individuals on or before Jan. 31 of the year immediately following the calendar year to which the statements relate.

## 2019 Draft Forms

The 2019 draft forms and instructions are substantially similar to the final 2018 versions. However, both draft versions of the instructions were revised to remove references to the individual mandate penalty.

Before 2019, individuals who did not have minimum essential coverage and did not qualify for an exemption from the individual mandate could be liable for a penalty. Beginning in 2019, the individual mandate penalty amount was reduced to \$0. **Despite this, Section 6055 reporting continues to be required.** The draft instructions note that Section 6055 reporting helps the IRS administer premium tax credit eligibility, because an individual who is eligible for certain types of minimum essential coverage may not be eligible for the premium tax credit.

In addition, the revised version of the Form 1095-C clarifies that the “Plan Start Month” box in Part II will remain optional for 2019. The IRS previously indicated that this box may have been mandatory for the 2019 Form 1095-C.

Finally, the draft instructions were updated to include increased penalty amounts for 2019 reporting.

- ✓ The penalty for failure to file a correct information return is \$270 for each return for which the failure occurs, with the total penalty for a calendar year not to exceed **\$3,339,000**.
- ✓ The penalty for failure to provide a correct payee statement is \$270 for each statement for which the failure occurs, with the total penalty for a calendar year not to exceed **\$3,339,000**.
- ✓ Special rules apply that increase the per-statement and total penalties if there is intentional disregard of the requirement to file the returns and furnish the required statements.

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Keep in mind that the IRS may make additional changes to these forms and instructions before releasing final 2019 versions.

## Additional Resources

The 2018 versions of these forms are currently available on the IRS website:

- ✓ [Form 1094-B](#) and [Form 1095-B](#) (and related [instructions](#)); and
- ✓ [Form 1094-C](#) and [Form 1095-C](#) (and related [instructions](#)).

These forms must have been filed with the IRS no later than **Feb. 28, 2019 (April 1, 2019, if filing electronically)**. However, the IRS extended the due date for furnishing individual statements for 2018 an extra 32 days, from Jan. 31, 2019, to **March 4, 2019**.

According to the IRS, information returns under Sections 6055 and 6056 may continue to be filed after the filing deadline (both on paper and electronically). Employers that missed the filing deadline should continue to make efforts to file their returns as soon as possible.

The IRS also previously released:

- ✓ [Q&As on Section 6055](#) and [Q&As on Section 6056](#); and
- ✓ A separate set of [Q&As on Employer Reporting using Form 1094-C and Form 1095-C](#).

## More Information

Please contact Cowden Associates, Inc. for more information on reporting under Code Sections 6055 and 6056.