



## United South and Eastern Tribes, Inc.

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## ***Understanding the Employer Mandate Overview of Requirements***

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***Applicable Large Employers, including Tribes and/or Tribal entities will have to comply with the mandate to avoid assessable payments.***

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### ***What is an Applicable Large Employer?***

Employers employing 50 or more full time (or combination of full time and part time) employees. A full time employee is defined as an individual employed on average at least 30 hours of service per week.

### ***What do the reporting requirements include?***

- Tracking the Employee offer of coverage on a monthly basis beginning with 2015 and thereafter. This includes employee, spouse and dependent coverage.
- Issue Employee Reporting 1095-C or 1095-B forms (if self insured) to each employee.
- Completing 1094-C, the Transmittal of Employer –Provided Health Insurance Offer and Coverage Information Returns or 1094-B if self-insured

### ***Simplified Reporting Options***

Two alternative methods of reporting under section 6056 were developed to minimize the cost and administrative tasks for employers. The alternative reporting methods, may permit employers to provide less detailed information than under the general method for reporting. These simplified alternative reporting methods and the conditions for using them are described in detail in the [instructions for Forms 1094-C and 1095-C](#). The alternative reporting methods are:

- Reporting Based on Certification of Qualifying Offers
- Qualifying Offer Transition Relief (required for employers with 50-99 employees seeking to claim transition relief from the mandate for 2015 only)
- Option to Report Without Separate Identification of Full-Time Employees if Certain Conditions Related to Offers of Coverage Are Satisfied (98 Percent Offers)

### ***Extended Reporting Deadlines***

- IRS Forms 1095-C or 1095-B (if self-insured) are **due to employees March 31, 2016**
- IRS Forms 1094( C or B) and 1095 (C or B) are **due to the IRS**
  - if filing by paper: May 31, 2016
  - If filing electronically: June 30, 2016
  - Note: If you have 250 employees or more, you are required to file electronically.

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### ***For Consideration: Employer Aggregation Rules***

- Companies with a common owner or that are otherwise related under certain rules of section 414 of the Internal Revenue Code are generally combined and treated as a single employer for determining ALE status. If the combined number of full-time employees and full-time-equivalent employees for the group is large enough to meet the definition of an ALE then each employer in the group (called an ALE member) is subject to the employer shared responsibility provisions, even if separately the employer would not be an ALE.
- A special standard applies to government entity employers in the application of the aggregation rules under the Code for Governments section 414. Because section 414 relates to common ownership and ownership isn't a typical arrangement for government entities, and because specific rules for government entities haven't yet been developed, government entities, including Tribes, may apply a good faith reasonable interpretation of section 414 to determine if they should be aggregated with any other government entities.
- A governmental unit (defined as the government of the United States, any State or political subdivision thereof, or any Indian tribal government or subdivision of an Indian tribal government) may report under section 6056 on its own behalf or may appropriately designate another person or persons to report on its behalf. A person may be appropriately designated to file the return and furnish the statements if the person is part of or related to the same governmental unit as the ALE member. A government entity that is designated to file for another governmental unit is referred to as a Designated Government Entity (DGE).
- If a DGE is designated to file returns on behalf of more than one ALE member, the DGE must file a separate Form 1094-C for each ALE member for which the DGE is reporting. Additionally, the regulations require that there be a **single identified Form 1094-C Authoritative Transmittal reporting aggregate employer-level data for the ALE member**, and that there be only one Form 1095-C for each full-time employee.

### ***How will shared responsibility payments be applied?***

The shared responsibility applies if an employer does not qualify for transition relief and:

- The employer does not offer at least 70%\* of their full time employees (and their dependents) the opportunity to enroll in health insurance coverage **AND** the employee purchases health insurance from the Marketplace and received a premium tax credit or cost sharing reduction.  
**OR**
- The employer does offer at least 70% \*of its employees (and their dependents) the opportunity to enroll in health insurance coverage that but the coverage is unaffordable or does not provide minimum value **AND** the employee purchases health insurance from the Marketplace and received a premium tax credit or cost sharing reduction.

\*Increases to 95% after the 2016 Tax Season.

### ***Employer Mandate Resources***

- Affordable Care Act Tax Provisions for Employers (including information on how to determine if your organization qualifies as an Applicable Large Employer): <http://www.irs.gov/Affordable-Care-Act/Employers>
- Information Reporting by Applicable Large Employers: <http://www.irs.gov/Affordable-Care-Act/Employers/Information-Reporting-by-Applicable-Large-Employers>
- Questions and Answers on Reporting of Offers of Health Insurance Coverage by Employers (Section 6056): <http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Reporting-of-Offers-of-Health-Insurance-Coverage-by-Employers-Section-6056>
- Understanding Employer Reporting Requirements of the Health Care Law: <http://www.irs.gov/pub/irs-pdf/p5196.pdf>

### ***Links to IRS Forms***

- Form 1095-C: <https://www.irs.gov/pub/irs-prior/f1095c--2015.pdf>
- Form 1094-C: <https://www.irs.gov/pub/irs-prior/f1094c--2015.pdf>
- Instructions for Forms 1094-C and 1095-C: <https://www.irs.gov/pub/irs-prior/i109495c--2015.pdf>

### ***USET Staff and Consultants available to provide additional information and assistance:***

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## **Reporting Requirements for Applicable Large Employers**

*Tribal employers with more than 50 full time or full time equivalent employees will be considered Applicable Large Employers ("ALEs") under the Affordable Care Act ("ACA"). Under the ACA, ALEs are required to offer full-time employees and their dependents certain minimum levels of health coverage, or pay a significant fine. To assist in enforcing this requirement, Section 6056 of the Internal Revenue Code require ALEs to report certain health coverage information to both the IRS and to their employees beginning in early 2016 for calendar year 2015.*

### **Are Tribal government entities required to report under section 6056?**

- Yes. Section 6056 applies to all employers that are ALEs, regardless of whether the employer is a tax-exempt or government entity including federal, state, local, and **Indian Tribal governments**.

### **What are the reporting requirements and who is required to report?**

- Under Section 6056 of the Internal Revenue Code, Applicable Large Employers ("ALEs") are required to track and report on the health care coverage they offer on a monthly basis to full time employees and their dependents to the IRS, and to furnish their employees with a statement providing the same information. ALEs are employers, including governmental
- entities, which employed an average of 50 or more full-time or full-time equivalent (FTE) employees on business days during the previous calendar year. See 26 U.S.C. § 4980H(c)(2).

### **How are reports submitted?**

- ALEs and ALE members must file IRS Forms 1095-C (*Employer-Provided Health Insurance Offer and Coverage*) and 1094-C (*Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*) to meet the reporting requirements. ALEs may also use substitute forms if they contain all the information required to be reported on forms 1094-C and 1095-C.
- A separate Form 1095-C must be provided to each full-time employee.
- ALEs that are also self-insured employers may use Forms 1095-C and 1094-C to meet their reporting requirements. Self-insured employers that are not ALEs must submit Forms 1095-B (*Health Coverage*) and 1094-B (*Transmittal of Health Coverage Information Returns*).
- ALEs that file **250** or more returns **must file** the returns with the IRS **electronically**.
- Statements furnished to full-time employees must be furnished by mail, or in electronic format with affirmative consent of the employee.

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### When are the reports required?

- Forms 1095-C and 1094-C must be filed with the IRS annually, **by May 31 (or June 30th, if filed electronically) 2016**. The statements required for all full-time employees must be furnished by **March 31<sup>st</sup> 2016**

### Are there penalties for failing to report?

- ALEs that fail to meet the reporting requirements may be subject to penalties under section 6721 and section 6722 of the Internal Revenue Code.
- Penalties for 2015 are \$200 per employee, but no more than \$3 Million.

### What is the general method of reporting?

- As a general method, each ALE member may satisfy the requirement to file a section 6056 return by filing a Form 1094-C (transmittal) and, for each full-time employee, a Form 1095-C (employee statement).
- For general 6056 reporting, the following information is required by statute: the name, address, and EIN of the employer; the name and telephone number of the employer's contact person; the calendar year being reported; a certification as to whether the employer offered full-time employees and their dependents the opportunity to enroll in minimum essential coverage, by calendar month; for each full-time employee, the months during which such coverage was available; for each full-time employee, the employee's share of the lowest cost monthly premium for self-only coverage, by calendar month; the number of full-time employees for each month; the name, address, and TIN of each full-time employee and the months, if any, the employee was actually covered under the employer-sponsored plan

### Are there any alternative methods of reporting?

- Eligible ALEs may, at their option, utilize alternative methods of reporting that are intended to minimize the time and expense needed to complete the reporting requirements. The alternative reporting methods utilize certifications by the ALE that it made certain qualifying offers of coverage to a sufficient percentage of its employees, and are described in the preamble to the IRS regulations and the instructions for Forms 1094-C and 1095-C (see Web Resources on the opposite page). These include:
  - **Reporting Based on Certification of Qualifying Offers:** A "Qualifying Offer" is an offer that satisfies all of the following criteria: an offer of minimum essential coverage that provides minimum value; the employee cost for employee-only coverage for each month does not exceed 9.5 percent of the mainland single federal poverty line divided by 12; and an offer of minimum essential coverage is also made to the employee's spouse and dependents (if any). An ALE member reporting under the certification of Qualifying Offers method may furnish a **simplified statement** to the employee rather than furnishing a copy of Form 1095-C as filed with the IRS.
  - **Qualifying Offer Transition Relief** For 2015 only, employers with 50 – 99 employees will not be assessed a penalty for not offering coverage to their employees if they certify that they had fewer than 100 employees, and that from February 9, 2014, through December 31, 2014, they did not reduce the size of its workforce or reduce the overall hours of service of its employees in order to qualify for the transition relief and did not eliminate or materially reduce health coverage provided during that period. **In order to claim this relief, an employer must do so using Form 1094-C.**
  - **98 Percent Offer Method:** An ALE member that certifies that it has offered, for all months of the calendar year, affordable health coverage providing minimum value to at least 98% of its employees for whom it is filing a Form 1095-C, and offered minimum essential coverage to those employees' dependents, may

qualify for simplified reporting procedures. The employer is not required to identify which of the employees for whom it is filing were full-time employees, but the employer is still required to file Forms 1095-C on behalf of all of its full-time employees.

### **How do you calculate the number of Full Time Employees?**

For purposes of the employer shared responsibility provisions, a full-time employee is, for a calendar month, an employee employed on average at least 30 hours of service per week, or 130 hours of service per month.

There are two methods for determining full-time employee status:

- Under the **monthly measurement method**, the employer determines if an employee is a full-time employee on a month-by-month basis by looking at whether the employee has at least 130 hours of service for each month.
- Under **the look-back measurement method**, an employer may determine the status of an employee as a full-time employee during what is referred to as the stability period, based upon the hours of service of the employee in the preceding period, which is referred to as the measurement period. The look-back measurement method may **not** be used to determine full-time employee status for purposes of ALE status determination.

### **What about Seasonal workers?**

- Seasonal workers are taken into account in determining the number of full-time employees. However, if an employer's workforce exceeds 50 full-time employees (including full-time equivalents) for 120 days or fewer during a calendar year, and the employees in excess of 50 who were employed during that period of no more than 120 days were seasonal workers, the employer is not considered an applicable large employer. Seasonal workers are workers who perform labor or services on a seasonal basis as defined by the Secretary of Labor, and retail workers employed exclusively during holiday seasons. For this purpose, employers may apply a reasonable, good faith interpretation of the term "seasonal worker."

### **If two or more related companies together are an applicable large employer under section 4980H, how do they comply with the information reporting requirements?**

- Companies that are sufficiently related and commonly controlled under the "controlled group rules" set out in section 414(b),(c), (m) or (o) will be treated as one company for purposes of the employer mandate, and each related entity is then referred to as an "ALE member." ALE members must file Form 1094-C (or a substitute form) with the IRS and furnish Form 1095-C (or a substitute statement) to its full-time employees, using its own EIN. When the combined total of full-time employees for all ALE members (including FTEs) meets the threshold, each separate company or ALE member is subject to the employer shared responsibility provisions even if a particular company or companies individually do not employ enough employees to meet the 50-full-time-employee threshold.
- Tribal governments are entitled to rely on a "reasonable good faith interpretation" as to whether the controlled group rules apply to them.

### **Is an ALE member that sponsors a self-insured health plan required to file Form 1094-C and Form 1095-C if the ALE member has no full-time employees?**

- Generally, yes. An ALE member that sponsors a self-insured health plan in which any employee or employee's spouse or dependent has enrolled is required to file Form 1094-C and Form 1095-C, whether or not that employer has any full-time employees and whether or not that individual is a current employee or a full-time employee. For

an individual who enrolled in coverage who was not an employee in any month of the year (for example, an ex-spouse electing coverage in his or her individual capacity and not through the employee's election of spousal coverage), the employer may file Forms 1094-B and 1095-B for that individual.

### **How does a governmental unit that has been designated to report on behalf of another governmental unit that is an ALE member complete Form 1094-C and Form 1095-C?**

- A governmental unit (defined as the government of the United States, any State or political subdivision thereof, or any Indian tribal government (as defined in section 7701(a)(40)) or subdivision of an Indian tribal government (as defined in section 7871(d)), may report under section 6056 on its own behalf or may appropriately designate another person or persons to report on its behalf. A person may be appropriately designated to file the return and furnish the statements under section 6056 on behalf of the ALE member if the person is part of or related to the same governmental unit as the ALE member. A government entity that is designated to file for another governmental unit is referred to as a Designated Government Entity (DGE).
- If a DGE is designated to file returns on behalf of more than one ALE member, the DGE must file a separate Form 1094-C for each ALE member for which the DGE is reporting. Additionally, the regulations require that there be a single identified Form 1094-C Authoritative Transmittal reporting aggregate employer-level data for the ALE member (including full-time employees of the ALE member the reporting for which has been transferred to a DGE), and that there be only one Form 1095-C for each full-time employee of the ALE member with respect to employment with that ALE member. For additional details, see the [instructions to Forms 1094-C and 1095-C](#).

### **What forms do a DGE and the designating governmental unit use to report the required information?**

- A governmental unit and a DGE should use Form 1094-B, Transmittal of Health Coverage Information Returns, and Form 1095-B, Health Coverage, or Form 1094-C and Form 1095-C, as follows:
  - (A) The Form 1094-C and Form 1095-C will identify the ALE member as the employer and the DGE as the entity filing on behalf of the governmental unit, so that the DGE must file a separate Form 1094-C for each ALE member that has delegated the reporting responsibility to the DGE. The DGE is responsible for furnishing each employee a copy of the Form 1095-C filed for that employee.
  - (B) A DGE of a self-insured employer-sponsored health plan (or options under the group health plan that are self-insured) must report the offer of coverage information and the enrollment information using a Form 1094-C and a Form 1095-C for each employee for whom the governmental unit has delegated the reporting to the DGE.
  - (C) An ALE member with a self-insured employer-sponsored health plan (or options under the group health plan that are self-insured) may delegate the responsibilities for reporting the enrollment in coverage (section 6055) information to a DGE but NOT the offer of coverage (section 6056) information. In this case, the DGE will report the enrollment information on Form 1094-B and a Form 1095-B. The Form 1094-B will identify the DGE as the filer and the Form 1095-B will identify the DGE as the Issuer or Other Provider in Part III. The DGE is responsible for furnishing the employee a copy of the Form 1095-B filed for that employee. Because the governmental unit did not delegate its responsibilities for reporting the offer of coverage information, the governmental unit must report the offer of coverage information on a Form 1094-C and a Form 1095-C for each full-time employee, and not complete Form 1095-C, Part III (since the enrollment information will be provided by the DGE on a Form 1095-B).