

GROOM LAW GROUP

Katie B. Amin
Principal
(202) 861-2604
kamin@groom.com

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Submitted via pra.comments@irs.gov

Andres Garcia
Internal Revenue Service
Room 6526
1111 Constitution Avenue, NW
Washington, DC 20224
OMB Control No. 1545-2252

Re: PRA Comments on Forms 1094-B and 1095-B, OMB Control No. 1545-2252

Dear Mr. Garcia:

We are pleased to be able to provide information collection comments concerning Form 1094-B, Transmittal of Health Coverage Information Returns and Form 1095-B, Health Coverage, OMB Control No. 1545-2252, published in the Federal Register on May 16, 2025.¹ We appreciate the opportunity to highlight for you this particularly burdensome reporting requirement.

Groom is a law firm that counsels group health plan sponsors, health insurance issuers, third-party administrators, and other entities affected by health and benefits regulation. We submit this comment based on our industry experience.

As the information collection request explains, Internal Revenue Code (“Code”) section 6055 requires certain entities, including issuers, self-funded employer group health plans, and government-sponsored group health plans, that provide “minimum essential coverage” to report certain information. The IRS created specific forms to report and transmit this information.

Because this information collection request is limited to the Forms 1094-B and 1095-B, the request does not capture the full extent of the burden placed on reporting entities that must report offers of health coverage. In addition to the Forms 1094-B and 1095-B, the IRS also collects information on health coverage through the Form 1095-A and Forms 1094-C and 1095 -C. The IRS may assess penalties if these forms are not filed, not filed correctly, or not distributed to required individuals.

Multiple forms, requesting similar, but not identical, information, which must be filed annually and require an employer or other reporting entity to determine, annually, which form it must use

¹ 90 Fed. Reg. 21128.

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and what information it must collect and report, is challenging and diverts time and resources away from the employer's (or reporting entity's) primary business. There is a better way.

While we look forward to working with the IRS to streamline all of the health coverage reporting—*all* of the related Forms 1094 and 1095—we limit our response here to your specific request for Forms 1094-B and 1095-B comments. Below we explain that the collection is no longer necessary for proper agency performance; that the collection is unjustifiably burdensome; and how the IRS could minimize the burden of the collection on respondents, in response to your solicitation for specific comments.

The collection is no longer necessary

We believe that the IRS can greatly reduce the burden of this information collection because the purpose of the regulations and other guidance implementing the statute has become obsolete and is no longer necessary for proper agency performance. Because Congress has reduced the individual mandate penalty to \$0, the primary purpose of collecting information on minimum essential coverage—ensuring individuals have health insurance coverage and administering the individual shared responsibility penalty for those that do not—no longer applies. If the IRS must collect some information on minimum essential coverage to properly administer the premium tax credit created by the ACA, that information is better collected on Forms 1094-C and 1095-C, which “applicable large employers” already file to report specific health coverage information.

The collection is unjustifiably burdensome

Based on our discussions with clients, we also believe that the IRS underestimates the burden of this collection. Because health insurance issuers, self-funded employer sponsored group health plans, and government-sponsored group health plans (“every person that provides minimum essential coverage”) must report, large numbers of the public either have to comply individually or contract with a service provider to complete the required reporting through either Forms 1094-B/1095-B or 1094-C/1095-C.

The federal government itself is also required to comply with this reporting, not only for employees, but for governmental programs like Medicare Part A, Medicaid (with some exceptions), Children's Health Insurance Program (CHIP), TRICARE (with some exceptions), Department of Veteran's Affairs coverage (including CHAMPVA) (with some exceptions), and Peace Corp volunteer coverage.

Moreover, the Form 1095-B has to be provided to *individuals* in addition to reporting to the IRS and generally has to be provided on paper, by mail, unless the reporting entity receives affirmative consent from the individual to receive the notice electronically or posts a notice on its website allowing individuals to request a copy. Reporting entities therefore must pay for postage, collect and track affirmative consents for electronic delivery, or monitor and respond to requests and create a form on demand. And even electronic delivery requires most reporting entities to contract with a vendor to handle the formatting and volume. Each method carries significant cost and diverts resources away from other important priorities.

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To minimize the burden of minimum essential coverage reporting, the IRS should revise the Form 1095-C

While necessary for IRS performance when the individual shared responsibility penalty is greater than \$0, the current Form 1094/5-B reporting requirements are far too burdensome when individuals are no longer required to choose between minimum essential coverage and a penalty. If the IRS continues to need information for the proper administration of other ACA programs, like the premium tax credits, the information should be more narrowly collected on the Forms 1095-C.

For example, the IRS could revise the Form 1095-C to gather any additional information it believes it needs from employers currently filing the Form 1095-B instead of the Form 1095-C, thus collecting the necessary information but obviating the need for the Forms 1094-B and 1095-B. We are happy to discuss our suggestions for regulatory and Form revisions with the IRS.

Summary

In short, we believe that the IRS can quickly and effectively relieve significant burden and save taxpayers millions of dollars and thousands of compliance hours by amending the current rules to eliminate unnecessary minimum essential coverage reporting. This would also eliminate the cost and burden on the IRS related to processing unnecessary Forms 1094-B and 1095-B.

We appreciate the opportunity share our thoughts on how to reduce outdated and burdensome regulations. We look forward to working with the IRS on this important issue. We have also attached a letter we have previously provided to OMB in response to the Deregulatory RFI, which further outlines our concerns about this unnecessary, burdensome reporting.

We would welcome meeting with the appropriate staff at both agencies to share precisely how we believe the regulations and Forms could be modified to ensure that the IRS captures necessary information without requiring unnecessary minimum essential coverage reporting.

Sincerely,



Katie B. Amin

GROOM LAW GROUP

Katie B. Amin
Principal
(202) 861-2604
kamin@groom.com

May 12, 2025

Submitted via regulations.gov

Director Russell T. Vought
Executive Office of the President
Office of Management and Budget

Re: Request for Information: Deregulation

Dear Director Vought:

We are pleased to be able to provide comments on the Office of Management and Budget's request for information on deregulation, published in the Federal Register on April 11, 2025 (90 FR 15481). We appreciate the opportunity to highlight for you a particularly burdensome, and largely unnecessary, reporting requirement that plagues employers, health insurance issuers, and the Internal Revenue Service (IRS).

Groom is a law firm that counsels group health plan sponsors, health insurance issuers, third-party administrators, and other entities affected by health and benefits regulation. We submit this comment based on our industry experience.

The Affordable Care Act introduced individual shared responsibility and employer shared responsibility for health coverage, colloquially known as the individual mandate and the employer mandate. At the same time, the Affordable Care Act created health insurance Exchanges (also called Marketplaces) for the purchase of health insurance and premium tax credits to subsidize the purchase of Exchange coverage for certain qualifying individuals. These mandates and programs, some of which are no longer in effect, require a vast amount of data collection, tracking and reporting from employers and health insurance issuers. That data collection, tracking, and reporting comes at a cost. While help from Congress may be necessary to relieve the biggest burdens, such as those associated with the employer mandate and its penalties, we look forward to working with the Administration to find ways to simplify, consolidate, and leverage necessary reporting while eliminating needless and redundant reporting.

One way for the Administration to quickly, yet greatly, reduce the burdens associated with outdated requirements would be to amend the regulations and guidance issued under Internal Revenue Code (Code) section 6055 (reporting of health insurance coverage) because the purpose of the regulations and guidance has become obsolete. With the individual mandate penalty reduction to \$0, nearly all of the information collected under these regulations no longer contributes to administrative efficiency. Providing an unnecessary information return to

individuals is also wasteful. These requirements are extremely cumbersome and cost a substantial amount of time and money for American businesses and the government agencies to comply. As a result, we believe that this reporting is a prime example of outdated, unnecessary, and burdensome regulatory requirements that can be alleviated.

Current regulatory requirements

To support the individual and employer mandate requirements, Congress required reporting from anyone who actually provides health coverage (section 6055 reporting) and from employers that are subject to the employer mandate (section 6056 reporting). These groups often, but not always, overlap. To implement the reporting requirements, the IRS issued rules and developed three forms: Forms 1095-A, 1095-B, and 1095-C.¹ We believe that the Form 1095-B, titled “Health Coverage” and which reports information to the IRS and covered individuals about minimum essential coverage, is outdated and should no longer be required.

Specifically, Code section 6055 requires “every person who provides minimum essential coverage to an individual during a calendar year” (Reporting Entity) to report:

- Name, address, and tax identification number (TIN) of the primary insured and the name and TIN of each other individual obtaining coverage;
- The dates on which the individual was covered;
- Whether the coverage is a qualified health plan;
- The amount, if any, of premium tax credits (PTCs), including advance PTCs, and/or cost-sharing reductions; and
- Other information as requested by the IRS.

With respect to coverage provided by a health insurance issuer through a group health plan, the Reporting Entity must report:

- The name, address, and EIN of the employer sponsoring the plan;
- Whether the coverage is a qualified health plan enrolled in through the Small Business Health Options Program (SHOP) and the SHOP’s unique identifier; and
- Other information required by the IRS.

¹ Regulations at

- 26 CFR 1.36B-5 (Information Reporting by Exchanges),
- 26 CFR 1.6055-1 (Information Reporting for Minimum Essential Coverage), and
- 26 CFR 301.6056 (Applicable Large Employer Reporting)

and through

- Forms 1095-A (Health Insurance Marketplace Statement),
- Forms 1094/5-B (Health Coverage), and
- Forms 1094/5-C (Employer Provided Health Insurance Offer).

The Reporting Entity must report this information to the IRS and covered individuals. The purpose of this collection is to administer: (1) the individual responsibility provision of the ACA, otherwise known as the “individual mandate,” (Code section 5000A); and (2) eligibility for PTCs (Code section 36B).

In addition to the Code section 6055 reporting, Code section 6056 requires more detailed reporting from large employers to assist with employer mandate and PTC administration. This information is reported on the Form 1095-C.²

Tax Cuts and Jobs Act changes

The penalty for an individual’s failure to have minimum essential coverage (the “individual mandate penalty”) was set at \$0 by Congress in 2017 in the Tax Cuts and Jobs Act (TCJA), effective beginning in 2019. Public Law 115-97, 131 Stat. 2054, 2092 (2017). However, the TCJA did not amend Code section 6055 to remove any of the reporting requirements. In other words, there is no individual mandate penalty currently, and there has not been an individual mandate penalty for years. Yet, the reporting necessary to administer the penalty – Code section 6055 reporting on the Form 1095-B – continues. Our conservative estimate is that the removal of the burdensome and largely unnecessary Code section 6055 reporting requirements will ultimately save reporting entities millions of dollars and eliminate thousands of hours of time consuming and nonvalue-added activity, thereby achieving the stated goal of OMB’s important request.

Specifically, health insurance providers currently must collect information related to each individual’s health care coverage and submit it on an individual Form 1095-B. Many taxpayers must pay a service provider to assist with this reporting. The information, once gathered, must be provided to both the IRS and the individual, either by mail or electronically. The individuals who receive this Form are often confused about why they are receiving the Form and whether they need the Form to prepare their individual tax returns. Health insurance providers are also required to track any changes made in the data and submit those changes to both the individual and the IRS by specified due dates. All of these resources are devoted to report on minimum essential coverage – a requirement that no longer has any penalty associated with it.

Additionally, health insurance providers are often burdened by the tracking, matching, and reporting of individual data, such as a social security number or date of birth. This sensitive information is often not received from the individual, in which case the regulations require the health insurance provider to send letters to solicit this information, up to three times. The IRS then must review the data for compliance, issue guidance, audit, and work with taxpayers to address issues, *even though most of the substance of the reporting is obsolete*. By amending obsolete regulations, we believe that the Administration can significantly reduce the administrative workload for health insurance providers, individual taxpayers, and government agencies.

² As discussed below, we recommend that, if the IRS needs any 1095-B information from employers, it revises the Form 1095-C to collect that information. We would be happy to discuss our suggestions for regulatory and form revisions with the IRS.

Other uses for the reporting

We appreciate that some information collected under Code section 6055 may be necessary for a reason other than the individual mandate penalty. We also appreciate that Congress may, in the future, decide to raise the penalty above \$0 and this reporting may become relevant again. Nevertheless, the Code section 6055 rules could easily be amended to provide Reporting Entities and the IRS current relief without doing violence to the remaining statutory and regulatory requirements.

Solution: Amend the Code section 6055 reporting rules (and the applicable Forms)

The IRS could amend the current Code section 6055 reporting regulations to provide that Reporting Entities are not required to do minimum essential coverage reporting until the penalty under Code section 5000A exceeds \$0. This could be done in various ways, including adding the following to existing subparagraph (d):

“(4) Zero penalty under section 5000A. No reporting is required under this section for coverage offered to any individual for calendar years beginning after December 31, 2024.”

In the future, if Congress increases the penalty, the IRS can simply remove this paragraph.

However, if the IRS believes that it needs minimum essential coverage reporting from some Reporting Entities to effectively administer the PTCs, the IRS could carve-out certain Reporting Entities from the above provision, leaving the reporting obligation intact. For example, the IRS may believe it still needs this reporting with respect to minimum essential coverage sponsored by employers that are not subject to the Code section 4980H and thus do not file a Form 1095-C. The IRS already receives much of the information it needs to administer the PTC via the Form 1095-C filed by employers that are subject to Code section 4980H. The IRS could revise the Form 1095-C to gather any additional information it believes it needs from these employers thus collecting the necessary information but obviating the need for the 1095-B.

Subregulatory guidance

If amending these rules is not feasible, in order to reduce the burden associated with this outdated and unnecessary reporting, the IRS should issue a Notice or other subregulatory guidance reflecting the above or issuing a nonenforcement policy that reflects the above. This guidance can be part of guidance that the IRS issues to implement the Employer Reporting Improvement Act (H.R. 3801) and the Paperwork Burden Reduction Act (H.R. 3797) that were signed into law at the end of the 2024.

Summary

In short, we believe that this Administration can quickly and effectively relieve significant burden and save taxpayers millions of dollars and thousands of compliance hours by amending

the current rules to eliminate unnecessary minimum essential coverage reporting. This would also eliminate the cost and burden on the IRS related to processing unnecessary Forms 1095-B. Alternatively, the Administration could issue a Notice or other subregulatory guidance providing that unnecessary minimum essential coverage reporting is not required.

We appreciate the opportunity share our thoughts on how to reduce outdated and burdensome regulations. We look forward to working with OMB and the IRS on this important deregulatory effort. We would welcome meeting with the appropriate staff at both agencies to share precisely how we believe the regulations and Forms could be modified to ensure that the IRS captures necessary information without requiring unnecessary minimum essential coverage reporting.

Sincerely,



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