

November 3, 2014

Submitted via email to Christie.A.Preston@irs.gov

Attention: Christie Preston, Section Chief, Special Services
Internal Revenue Service
Room 6129
111 Constitution Avenue, NW.
Washington, DC 20224

Subject: Comments on Draft IRS Forms 1094-C/1095-C and Related Instructions

Dear Ms. Christie Preston, Section Chief, Special Services:

Aon Hewitt appreciates the opportunity to provide additional comments, at the request of the Treasury Department and the Internal Revenue Service (IRS) (collectively Treasury), on the draft Forms 1095-C and 1094-C, and the corresponding instructions, issued pursuant to Sections 6055 and 6056 of the Internal Revenue Code. Please note that Aon Hewitt submitted initial comments regarding draft Form 1095-C by letter on August 21, 2014.

Who We Are

Aon plc (NYSE: AON) is the leading global provider of risk management, insurance and reinsurance brokerage, and human resource solutions and outsourcing services. We have 66,000 colleagues worldwide, Aon unites to empower results for clients in over 120 countries via innovative and effective risk and people solutions and through industry-leading global resources and technical expertise. Aon has been named repeatedly as the world's best broker, best insurance intermediary, best reinsurance intermediary, best captives manager, and best employee benefits consulting firm by multiple industry sources.

Aon Hewitt empowers organizations and individuals to secure a better future through innovative talent, retirement and health solutions. We advise, design and execute a wide range of solutions that enable clients to cultivate talent to drive organizational and personal performance and growth, navigate retirement risk while providing new levels of financial security, and redefine health solutions for greater choice, affordability and wellness. Aon Hewitt is the global leader in human resource solutions, with over 30,000 professionals in 90 countries serving more than 20,000 clients worldwide.

Aon Hewitt is actively building a system to support clients and their plans in satisfying the Section 6055/6056 employer reporting requirements. As part of that process, we reviewed not only our internal systems, but also the standard operations and capabilities of several representative clients and various other service providers who handle the data elements required for employer reporting. These comments reflect our own experience and research building our system and the issues/challenges uncovered.

General Comments

In general, Aon Hewitt has found that the data needed to comply with primarily Section 6056 reporting has traditionally been stored in separate systems for benefits, payroll, and leave administration. Often, individual service providers, each with its own proprietary technology and data structures, provide services related to these distinct areas, and in most cases these systems were not established with integrated reporting in mind. Now, for the first time, they will have to coordinate and share unprecedented amounts of data in order to assist Applicable Large Employers (ALEs) to satisfy the reporting requirements.



Although our support is on track and internal coordination is not expected to be a problem for clients for whom we provide broad support, employers and other service providers may experience substantial challenges in complying with the reporting obligations.

We believe that Section 6055 reporting can reasonably be delivered in January 2016 as currently required, with clarifications and additional guidance around tax identification number (TIN) and social security number (SSN) solicitations and corrections processes (reserved in the draft instructions). However, as mentioned above, Section 6056 requirements are considerably more challenging and thus we suggest the changes below. Note that some of our suggestions are mutually exclusive while others can and should (in our view) be implemented together.

Comments Regarding Postponing and/or Simplifying Section 6056 Reporting for 2015

1. Postpone Section 6056 reporting by one year (until 2017 for the 2016 calendar year).

We suggest postponing Section 6056 reporting until the reporting for the 2016 calendar year is due in early 2017, to allow sufficient time after release of the final forms and instructions (with corrections) for all stakeholders to update and integrate their systems. Under the current timeline, stakeholders (generally ALEs and service providers) are under extreme time and resource pressure to ensure systems are appropriately updated for the start of the 2015 calendar year. Much of the public timing discussion has been focused around system updates between now and January 2016, when the first returns are due, but in many cases systems must be updated and the data must be captured and processed starting January 1, 2015. Because final forms and instructions are not yet available and draft forms and instructions were not fully released until August 28, 2014, we do not believe that all stakeholders will be able to act quickly enough after the final forms and instructions are released to be ready on January 1, 2015.

We expect our support to be ready for 2015 reporting, but, it should be acknowledged, with significant financial, personnel, and technical costs. Our readiness notwithstanding, based on our industry knowledge and experience with large employer clients, we believe there is a significant external risk of low quality or failed reporting given the current timeline. Further, any systems hastily built in order to meet the January 1, 2015 deadline will almost certainly need to be rebuilt and repurposed later once the final requirements are released and digested, resulting in unnecessary waste of stakeholder resources. We believe that a postponement of the Section 6056 reporting obligation for one year would be consistent with the Treasury's emphasis on cooperation and stakeholder engagement during the Affordable Care Act rollout.

2. Simplify Section 6056 reporting for 2015 by permitting employers to report only Line 14 for Part II of Form 1095-C.

In the alternative to our first suggestion to postpone Section 6056 reporting for 2015, we suggest permitting employers to report only Line 14 for Part II (Form 1095-C) and making Lines 15 and 16 voluntary for 2015 reporting. This suggestion is made in light of the uncertainty around the final forms and instructions at this late date, the volume and disparate support of data required for full Section 6056 reporting, and the intricate interrelatedness of the various Line 14 and 16 codes. All of these factors make it extremely difficult for service providers and employers to capture all of the required data starting January 2015 and map it appropriately to the codes in time to meet January 2016 reporting.

We note that, even if Line 16 reporting is voluntary for 2015, we would expect many employers to still push to populate Line 16 with at least Codes 2A, 2B, 2C, and 2D in order to avoid an increase in the Treasury inquiries for routine 1H Codes reported in Line 14.

3. Postpone the 2015 Form 1095-C return deadline of January 31, 2016 by at least one month.

For the 2015 reporting in 2016, we suggest extending the delivery deadline for Form 1095-C to employees by one month, through February 29, 2016. Because the 1095-C delivery requirements are concurrent and coterminous with the W-2 delivery requirements, effective use of the W-2 affordability safe harbor may be challenging or impossible for 2015 reporting purposes. This is due to the fact that, in order to accurately determine the applicability of the W-2 affordability safe harbor, the benefits service provider or applicable in-house department must receive the final W-2 Box 1 wage information from the payroll service provider. Based on our experience, pre-existing contracts between service providers and ALEs provide for delivery of W-2s in mid to late January, or even as late as January 31. This means that a benefits department or service provider may be unable to use final W-2 Box 1 wages to apply the W-2 affordability safe harbor because the relevant information would be delivered too late.

We understand that this suggestion means that employees may be delayed in their ability to file their own tax returns. However, as noted above, this request would only apply for one year in order to facilitate a more orderly implementation of the Form 1095-C delivery and coordination with W-2 delivery. We are optimistic about the long-term ability of service providers to coordinate and adjust both their operations and contractual agreements to accommodate the new timelines.

4. Confirm the individuals for whom an ALE should report using Form 1095-C versus 1095-B.

We request that the Treasury confirm that Form 1095-C should be used for ALE reporting for at least all of the following:

- Employees (full-time and non-full-time) in Parts I, II, and III, as applicable;
- Employee family members in Part III;
- Former employees and/or their current or past family members who are on COBRA or retiree coverage in Parts I and III, as applicable;
- Surviving spouses and other beneficiaries in Parts I and III as applicable; and
- Any individual whose coverage is based on their own or another person's current or past period of employment with the ALE.

We also request confirmation that, by contrast, Form 1095-B should be used for ALE reporting for individuals whose coverage is provided by the ALE, but is **not** based on a period of current or past employment (e.g., non-employee directors).

Comments Regarding Specific Form 1095-C Reporting Elements

1. Permit reporting of the low cost option that applies on a consistent date for each month.

The regulations and instructions are unclear about how to handle reporting of a mid-month change in an individual's low cost option. On an association call in May 2014, an IRS official indicated her opinion that the employer could use the lower of the two applicable low cost options. Aon Hewitt believes a more appropriate approach would be to allow the employer to choose a consistent date each month and report the cost of the low cost option that applied on that date, as this would be more administratively feasible and aligned with industry standards regarding premium determinations/remittance.

For example, in our experience, premiums are typically remitted to carriers based on enrollments as of the 15th of each month. As such, reporting the low cost option applicable for the 15th of each month would substantially simplify the reporting.

Because an offer of coverage is only reported if it applies for the full calendar month (other than in the case of termination), any reasonable date chosen by the employer should apply. In the month of termination, because an offer of coverage can only be reported if the offer would have continued to apply had the person remained employed, it similarly would be consistent to use the same low cost option date and amount, even if the relevant date falls after the termination, because that is the low cost option date and amount that would have applied had the employee remained employed.

2. Permit an offer of coverage to be reported for mid-month newly hired employees who are immediately eligible for health benefits.

We suggest that employers who offer new employees coverage immediately upon starting employment be permitted to report such employees as having received an offer of coverage for the month, even when they start employment (and thus entitlement to coverage) mid-month. This would simplify reporting because it would allow employers to report for mid-month new hires using the same approach as applies to mid-month terminated employees. In the case of mid-month employee termination, an offer of coverage can be reported even if the otherwise applicable offer terminates mid-month so long as the employee would have continued eligibility for such offer had he/she continued employment through the last day of the month. Treating mid-month new hires differently than mid-month terminations (especially where no waiting period applies) unnecessarily adds administrative complexity and confusion. Thus, we believe reporting an offer of coverage should be permitted for the month during which employment commences if such employee would have been immediately offered coverage had he/she started employment on the first day of the month.

3. For employees working for more than one ALE member, permit the employer to apply a primary ALE member (and its EIN) to such employee for the entire calendar year rather than monthly.

We suggest that employers be permitted to assign an employee who works for multiple ALEs during the same calendar year to one of his/her ALE member employers and use such member's EIN for the entire year's reporting. As described above, for health benefits purposes, employers may combine (and not separately track) an employee's work for more than one ALE member. Moreover, any separate tracking that has historically been done may not be on a month-by-month basis. As such, we anticipate that for some employers it will be very burdensome and expensive to provide ALE member-by-ALE member tracking on a month-by-month basis.

4. Specify that initial measurement period reporting is limited to a calendar year during which full-time employee status is achieved.

We request that reporting of employees in their initial measurement period and/or associated administrative period (and the use of Code 2D for such months) only be required if the employee is determined to be a full-time employee during a stability period occurring during the same calendar year. Currently, the instructions direct the use of Code 2D in Line 16 of Form 1095-C for an employee's months of work during an initial measurement period, which would seem to expand the employer's reporting obligation to employees who are not full-time employees (as employees in an initial measurement period are not considered full-time employees and may not be offered coverage). Our suggestion means that, if no stability period applies to an employee in an initial measurement period (or associated administrative period) during the calendar year, or if a stability period applies but the employee is determined not to be full-time for such stability period, the employer would not need to report such employee.

5. Permit the employer to choose to report for each month rather than use the "All 12 Months" box for Part II and Part III.

We suggest that employers should be permitted to simply report each month on a month-by-month basis, rather than spend additional administrative time and resources comparing each month and (if they are identical) suppressing monthly reporting in order to use the All 12 Months box. In some cases, the various service provider and employer systems involved in this analysis may be compatible enough to "roll-up" the reporting for the year, but we anticipate that requiring the All 12 Month box to be completed will be a financial and administrative hardship on many employers.

6. Clarify and/or provide examples of use of the reporting codes for Lines 14 and 16 for common non-full-time employee scenarios.

To drive consistency in discussions and implementation between stakeholders, we request clarification and examples of how the Line 14 and 16 codes apply to non-full-time employees. Specifically, clarification and examples showing the applicable codes for the following situations would be appreciated:

- Full year non-full-time employees who are voluntarily reported in Part II.
- Employees who are full-time for part of the year and thus must be reported, but are part-time for the other part of the year (either preceding or following) and offered and/or enrolled in benefits while they are part-time.
- Any differences in reporting codes for such employees based on whether the coverage provided is insured or self-insured.

7. Remove the phone number field (Box 10) or permit it to be voluntary for 2015 reporting.

Consistent with our August 21, 2014 comment letter submitted for the draft Form 1095-C, we reiterate our request that the phone number field (Box 10) be removed. Alternatively, we urge the Treasury to make the field voluntary for at least 2015 reporting. As the Form 1095-C reporting involves the coordination of various service providers, each with their own existing agreements and policies, we believe more time will be needed for employers to identify and appropriately authorize and train either internal staff or a service provider to respond to phone calls regarding the forms. Specifically, we are concerned that privacy rules and practices for both health benefits and

payroll have sufficient time to be implemented for a combined telephone based support system. In the interest of our clients and their employees, we believe caller authentication standards, recordkeeping, and proper authorization procedures for accessing private or sensitive data and competently assisting callers in historically distinct reporting areas will need to be assessed and enacted.

Comments Regarding Future Corrections Guidance

1. Limit the time period for corrections and/or specify the information covered by the corrections requirements.

The final regulations described the intent to require ongoing corrections of the informational returns. The draft Form 1095-C Instructions reserved the corrections section for future guidance. Aon Hewitt supports other commenters who have urged the Treasury not to require corrections for information that was accurate at the time reported or to limit such corrections to circumstances when corrected information is received within 31 days of the end of the calendar year (i.e., January 31 of Year 2).

In the event that the Treasury does not adopt the relief suggested by other commenters, we suggest that the corrections section of the instructions specify and narrow the form fields and circumstances that will trigger corrections. The 1094/1095 Forms contain an unprecedented amount of personal, entity, benefits, and payroll information on one form. We believe that the intended broad corrections mentioned in the final regulations will result in an unintended and unduly burdensome number of corrections for both employers to provide and the Treasury to process. In order to limit the expenditure of both employer and Treasury resources, we recommend that certain anticipated, routine, and immaterial changes be excluded from corrections, such as:

- No correction required for a previously effective name change of which the employer (or agent) was not informed by January 1 of Year 2. (e.g., Form 1095-C, Boxes, 1, 17-22(a)).
- No correction required for a previously effective address of which the employer (or agent) was not informed by January 1 of Year 2. (e.g., Form 1095-C, Boxes 3, 4, 5, 6).
- No correction required for a retrospective change in a month's reported minimum essential coverage (MEC) based on a COBRA election/payment or qualified status change after January 1 of Year 2. (Form 1095-C, Part III; 1095-B, Part IV). Alternatively, we suggest that individuals be permitted to certify on their Form 1040 that a prior enrollment applies for a relevant month or months.
- No correction required for a TIN/SSN correction or provided for Section 6055 purposes (Form 1095-C, Part III; 1095-B, Part IV) if the employer has reported a date of birth for such individual and has completed the initial and at least the first of the two annual solicitations. In this instance, the corrected or newly provided TIN/SSN would be reported on the next year's return as appropriate.
- No correction required for a change to a reported Line 14, Code 1A as long as what would otherwise be reported still meets at least one of the affordability safe harbors.
- No correction required for changes to the dollar amount reported in Line 15 as long as it still meets at least one of the affordability safe harbors.
- No correction required for a change to the affordability safe harbor code reported in Line 16 as long as another affordability safe harbor code would apply and could be provided upon request.

Closing

If you have any questions or comments, please contact the undersigned at the telephone number or email address provided below.

Sincerely,

Aon Hewitt

M. Garrett Hohimer
Aon Hewitt Law Department
(847) 442-0506
garrett.hohimer@aonhewitt.com