



Affordable Care Act Reporting and Compliance: What We Learned

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Speaker Introduction



Rick Krueger, CPA, Manager

Rick has more than ten years of experience specializing in employee benefits. Rick manages a variety of services for clients with a wide range of complexity with a health care reform compliance and reporting. He has published several articles on ACA. Rick is a member of the CLA dedicated Employee Benefit Plan Group and active in the firm wide industry development.



Learning Objectives

- At the end of this session, you will be able to:
 - Summarize lessons learned as a result of the 2015 reporting requirements
 - Describe how organizations are changing benefits to comply with current and future provisions, including Cadillac Tax, reimbursement arrangements, and other payment arrangements
 - Better understand the required measurement methods under ACA and how their use can reduce penalties





Review Key Provisions of ACA

Review Key Provisions: Taxes and Penalties

- Employer Tax Updates
 - Small Business Health Care Tax Credit
 - Small Business Health Options Program (SHOP)
 - Medicare Tax
 - W-2 Reporting (Optional if under 250 W-2s)
 - Employer Shared Responsibility Penalties (for ALEs)
- Individuals and Families Tax Updates
 - Individual Shared Responsibility Penalties
 - Premium Tax Credit
 - Medicare Tax & Net Investment Income Tax



Review Key Provisions: Fees

Type	When?	Who?	How Much?
Patient-Centered Outcomes Research Fee	2012-2019	Affects all plans, but self-insured file Form 720	Year 1: \$1 / life Year 2: \$2 / life After: Indexed
Transitional Reinsurance Fee	2014-2016	Insurers & TPAs pay	2014: \$63/member 2015: \$44 2016: \$27
Health Insurance Industry Tax	2014	Insurance companies	2-4% of premiums
Cadillac Plan Tax	2018	High-cost plans	40% tax on excess over threshold





Impact of the Affordable Care Act

How has the Affordable Care Act changed our organization?

Common Changes Already Made

- Changing to Fiscal Year Plan (11/1 or 12/1 start date)
 - Deferred adjusted community ratings for small group plans
- Ending Reimbursement Programs
 - Reimbursements must be integrated with group health plan
 - Reimbursements programs that don't follow rules subject to \$36,500 fine per employee per year
- Adjusting Eligibility Criteria
 - Setting at 30 hours per week
 - Adopting look-back or monthly measurement method
 - Adopting stricter scheduling to avoid accidental FT status



Insurance Under ACA: Narrowing the Options



Future Changes to Consider

- Cadillac Tax (2020)
 - Delayed to 2020, initially effective for 2018
 - 40% Tax on Excess over \$10,200 Single or \$27,500 Family
 - Thresholds Above Include: Cost of Health Plan, ER HSA Contributions, EE and ER Contributions to FSA, Onsite Clinics
 - Estimated to Affect 25%-50% of Employers
- Flex Credits (Plan Years Beginning 1/1/2017)
 - Employer contributions that can be taken in cash or used for non-health care benefits do not count in affordability test.
 - Example: Employer contributes \$500/month to flex plan that can be used for health plan or other non-health benefits. Health plan is \$400/month for single coverage. For ACA purposes, the employee's cost is the full \$400. This creates a penalty risk if the employee enrolls in an Exchange plan and takes a government subsidy.



Future Changes to Consider (Continued)

- Cash Opt-Out Payments
 - Pending final regulations, but IRS Notice 2015-87 outlined the plan for regulations
 - Opt-out payments are added to cost of coverage for affordability test
 - Example: Employer offers health plan at \$100 cost to employees. Employer also offers \$200 cash to employees who waive coverage. For ACA purposes, the employee's cost is \$300. This creates a penalty risk if the employee enrolls in an Exchange plan and takes a government subsidy.
 - Also make sure cash opt-out payments are part of a Section 125 plan. (This is unrelated to ACA, but can create some bad tax consequences for employees.)



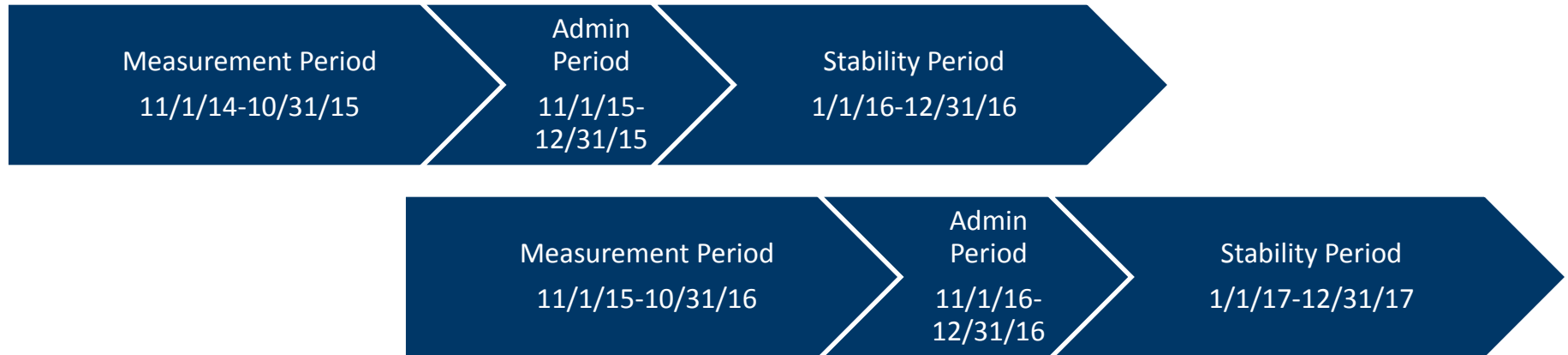
Future Changes to Consider (Continued)

- Optimizing Measurement Methods
 - Difficulties determining full-time status for ACA: variable-hour employees, seasonal employees, short-term employees, interns, etc.
 - Two allowable measurement methods for offering coverage
 - ◇ Monthly:
 - Pro: This is the default method and much simpler.
 - Cons:
 - All employees measured each month regardless of status. For example, if a seasonal employee works 30 hours/week for several months, they need insurance.
 - Not feasible for most employers to add/drop employees throughout the year.
 - ◇ Look-Back Measurement:
 - Pros:
 - Averages hours over longer period of time.
 - Better alignment with open enrollment.
 - Delays enrollment of variable-hour and seasonal employees
 - Cons:
 - Difficult to administer (essentially requires the use of software program).
 - Results in many “measurement periods” running simultaneously. One for on-going employees and multiple “initial measurement periods” as people are hired during year.
 - Still no special treatment for short-term employees or interns.



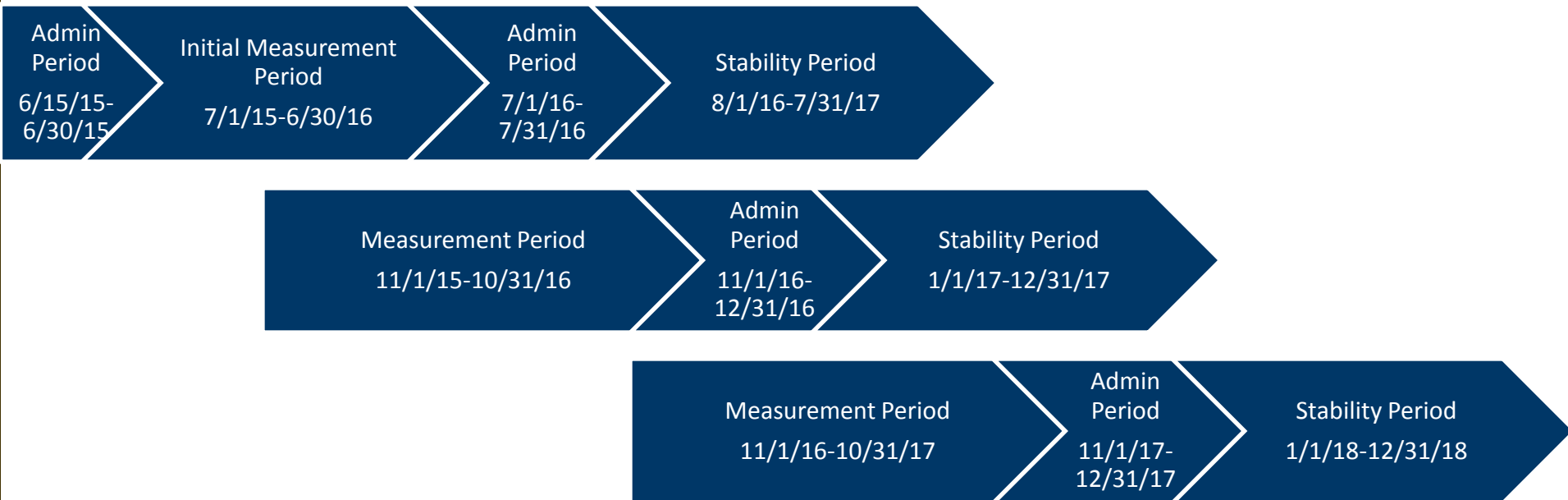
Look-Back Example 1

- Facts:
 - On-Going Employee
 - Employer Uses 12 Month Measurement Period
 - Calendar Year Plan with November Open Enrollment
- Look-Back Periods:



Look-Back Example 2

- Facts:
 - New Employee Hired 6/15/15 (Unable to Predict if EE Will Work 30 Hours/Week)
 - Employer Uses 12 Initial Measurement Period
- Look-Back Periods:



Look-Back: Key Points to Remember

- Employees expected to work full-time are still subject to 90 day waiting period
- Employers have some flexibility in setting the length of periods, but most choose 12 months
- Initial Administrative + Measurement Period cannot exceed 13 months plus a portion of another month
- In order to limit the number of initial measurement methods, many employers “split” the initial administrative period to lump together all new hires each month



Future Changes to Consider (Continued)

- Updating the Employee Handbook
 - Helps support offer of coverage if handbook includes eligibility and is widely available to employees
 - Review for ACA non-compliance
 - ◇ Many handbooks exclude offering insurance to temporary employees, interns, etc. However, this violates ACA as an employer cannot avoid offering insurance if those position work full-time hours.
 - ◇ Many handbooks are inconsistent with the actual practice and represent a risk upon IRS or DOL audit. Employers may have complied with ACA, but have outdated policies in the handbook.
 - ◇ Some handbooks still refer to old waiting period rules that are prohibited under ACA (for example enrolling people the first of the next month after 90 days)





ACA Reporting: Forms 1094/1095

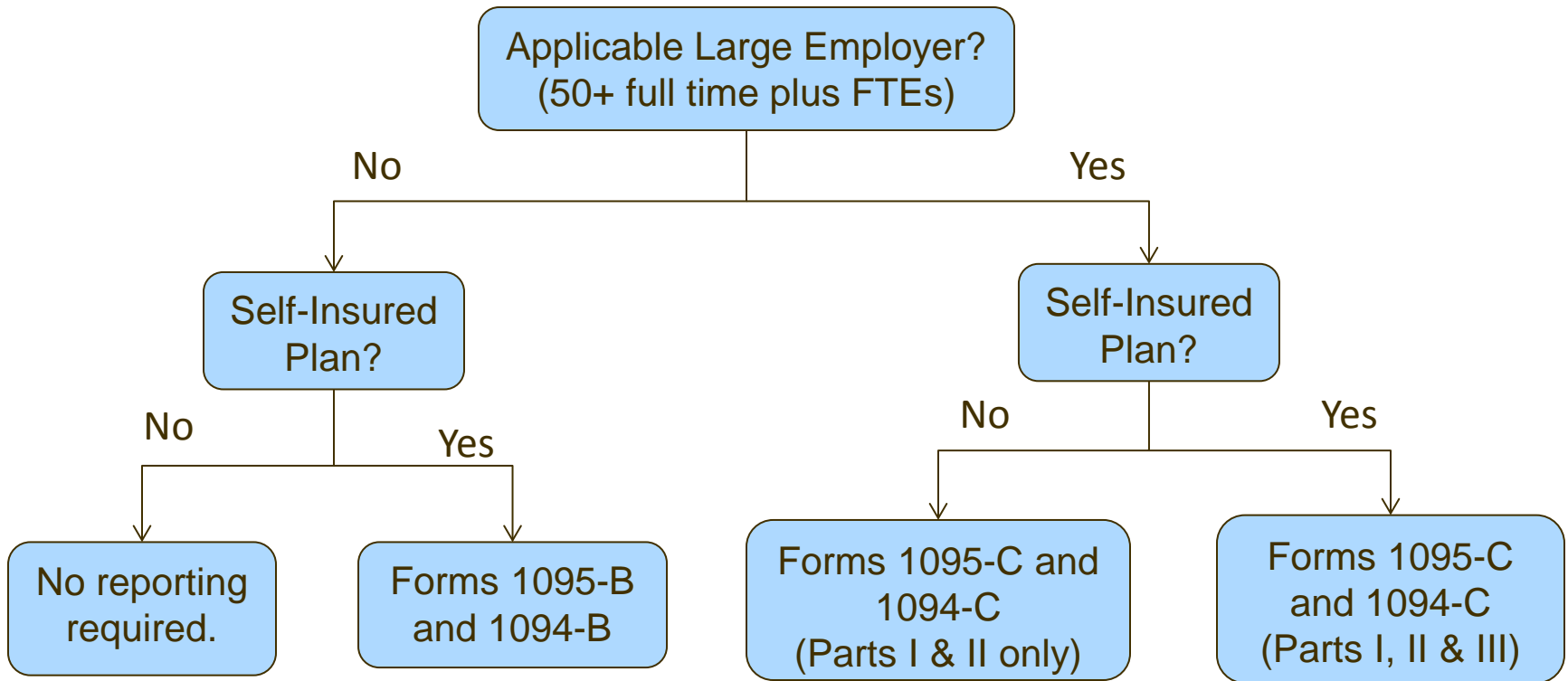
How have organizations complied with the new reporting requirements?

Forms 1094/1095: Who files which form?

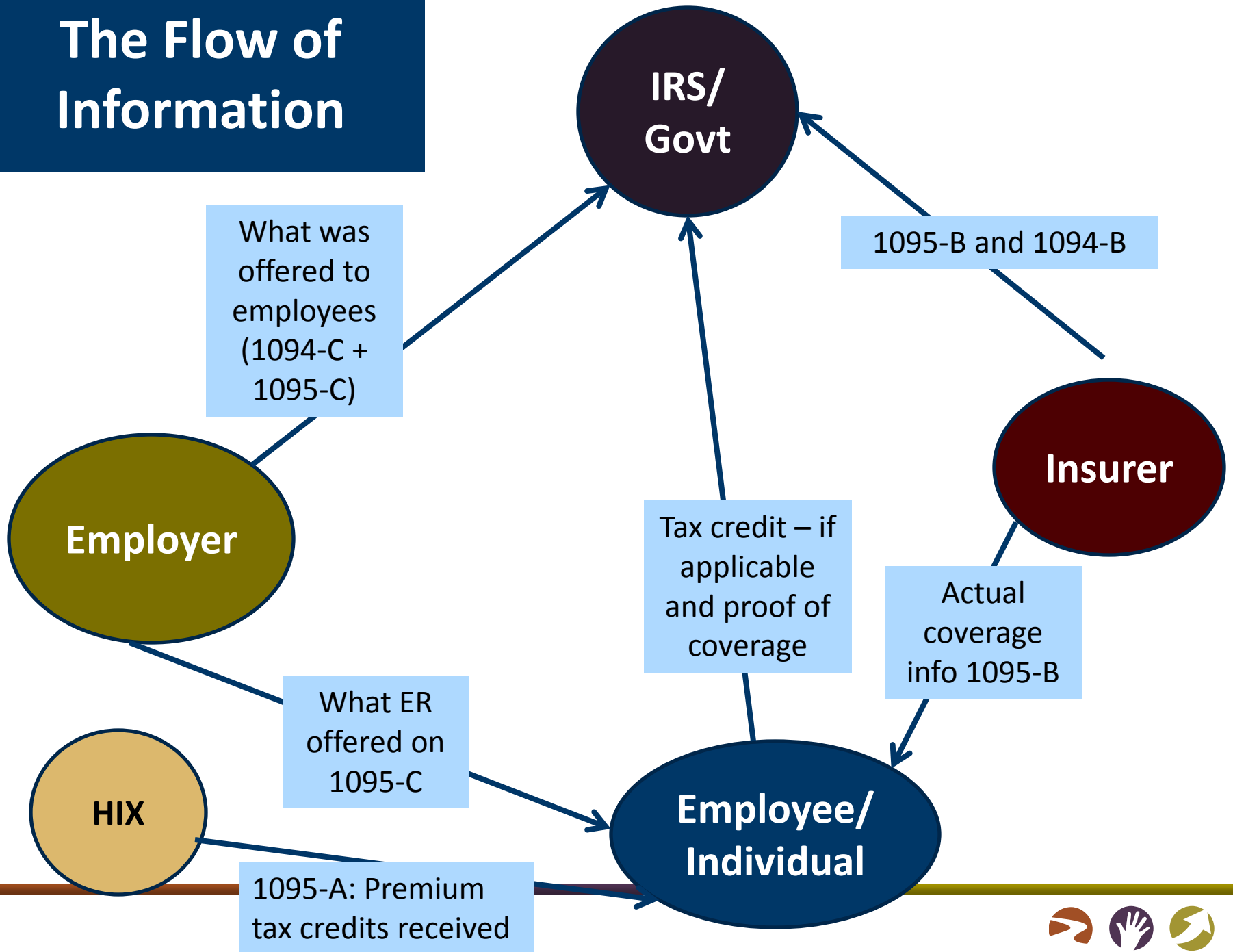
	A Series	B Series	C Series
Prepared by	Health Insurance Marketplace	Providers of minimum essential coverage <ul style="list-style-type: none"> i. Plan sponsors of self-insured employer coverage (except large employers filing 1095-C). ii. Health insurance companies for insured plans. 	Applicable Large Employers
Received by	Individual enrolled in Health Insurance Marketplace	Individual enrolled in fully-insured health plan	Full-time employees and/or individuals enrolled in a self-insured plan
Purpose	<ul style="list-style-type: none"> i. Provide information for Form 8962, Premium Tax Credit (PTC). ii. Provide support for coverage to avoid individual mandate penalty. 	Provide support for coverage to avoid individual mandate penalty.	<ul style="list-style-type: none"> i. Determine employer mandate penalty. ii. Provide support for coverage to avoid individual mandate penalty. iii. Determine eligibility of employees for PTC.



Forms 1094/1095: Determining Which Forms to File as Employer



The Flow of Information




Applicability: Determining if Employer is ALE

- Why is ALE status important?
 - Employer Shared Responsibility Provisions
 - Employer Information Reporting
- How to determine ALE status?
 - Based on average size of workforce during the prior year.
 - Threshold is 50+ full-time employees (FT) plus full-time equivalents (FTE).
 - Determined by adding the number of FT + FTE for each month of prior calendar year and dividing by 12.
- Who is a full-time employee?
 - An employee who averages at least 30 hours per week or at least 130 hours during the calendar month.
- How to count full-time equivalents?
 - Combine hours of service for all non-full-time employees (limiting hours to 120 per employee)
 - Divide the total by 120



ACA Reporting Challenges and Lessons Learned

Challenges

- Form 1095-C is NOT a W-2... it takes a lot of time!
- Coding Lines 14 and 16 are confusing 
 - For example, COBRA to active employee is 1E, COBRA to recent term is 1H, but COBRA to prior year term is 1G...
- Errors are very common and penalties are large

Lessons Learned

- Start early in 2016 (especially with 1/31/17 deadline)
- Establish a thorough review process and carefully choose service providers
- Understand common errors and penalty triggers



Common Errors in 2015



- Misclassification of employees
- Misuse of Code 2D – Limited Non-Assessment Period
- Blank months when unemployed instead of 1H/2A
- Blank Line 16 when a code applied
- Inappropriate use of 1A – Qualifying Offer
- Incorrect amounts in Line 15 (or any amounts with Line 14 as 1A)



Filing Form 1094-C



- Electronic filing required if over 250 Forms 1095-C
- Process for electronic filing through AIR System:
 - Option 1: Service provider or software company handles transmission
 - Option 2: Employer transmits directly to IRS
- For Option 2, employer must complete four steps:
 - Register to use IRS e-Services Tools
 - Apply for Transmitter Control Code (specific to 1094/1095)
 - Required Testing with AIR System
 - Electronically File XML File through AIR



Employer Mandate

How does ACA reporting relate to any potential penalties under the Employer Mandate?

Review of Section 4980H Penalties

- **Step 1: Determine if large employer**

- 50 full time (FT) + full time equivalent (FTE) employees
- Full time: EE who averages 30+ hours per week
- FTE: Part time employee hours worked in month divided by 120

- **Step 2: No insurance penalty**

- Coverage offered to at least 95% of FTs and dependent children
- Penalty is \$2,000 x each FT employee excluding first 30

- **Step 3: Failure to offer affordable and minimum value insurance penalty**

- Coverage affordable if EE premium for single coverage is less than 9.5% of Modified Adjusted Gross Income for household or safe harbor options
- Coverage provides minimum value if insurance pays at least 60% of actuarial value
- Penalty is \$3,000 x each FT employee who received government subsidy



Government Subsidies: What is available?

Premium Tax Credit

- Applies with household income between 100% - 400% of FPL
- Available through Exchanges if not offered affordable coverage from employer
- Tax credits can be applied in advance and adjusted on Form 1040

Cost Sharing Reduction

- Applies to those between 100% - 250% of FPL
- Available through Exchanges for Silver Plans

Medicaid & CHIP

- Application varies by state
- In states that expanded Medicaid, those making under 138% of FPL are eligible for Medicaid



Employer Mandate Penalty Process



- IRS is still finalizing process
- Timing: IRS will contact employers *sometime* after individual tax deadline.
- Process
 - IRS reviews 3 data sources: Forms 1094/1095-C, Individual Tax Forms of Employees, and Information about Exchange Subsidies
 - Initial contact from IRS to inform about potential liability
 - Opportunity for employer to respond
 - IRS to send notice and demand for payment
 - Payment made separately from other tax payments



Part III ALE Member Information—Monthly

		(a) Minimum Essential Coverage Offer Indicator		(b) Full-Time Employee Count for ALE Member	(c) Total Employee Count for ALE Member	(d) Aggregated Group Indicator	(e) Section 4980H Transition Relief Indicator
		Yes	No				
23	All 12 Months	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
24	Jan	Penalty Trigger	<input type="checkbox"/>	Used in Penalty Calc		<input type="checkbox"/>	Potential Penalty Trigger
25	Feb		<input type="checkbox"/>			<input type="checkbox"/>	
26	Mar		<input type="checkbox"/>			<input type="checkbox"/>	
27	Apr	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
28	May	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
29	June	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
30	July	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
31	Aug	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
32	Sept	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
33	Oct	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
34	Nov	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
35	Dec	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	



Employer-Provided Health Insurance Offer and Coverage

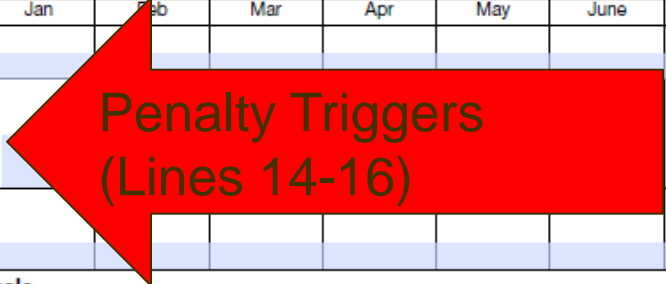
► Information about Form 1095-C and its separate instructions is at www.irs.gov/1095c.

VOID

CORRECTED

Part I Employee				Applicable Large Employer Member (Employer)			
1 Name of employee	2 Social security number (SSN)	7 Name of employer		8 Employer identification number (EIN)			
3 Street address (including apartment no.)		9 Street address (including room or suite no.)		10 Contact telephone number			
4 City or town	5 State or province	6 Country and ZIP or foreign postal code	11 City or town	12 State or province	13 Country and ZIP or foreign postal code		

Part II Employee Offer and Coverage	All 12 Months	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
	14 Offer of Coverage (enter required code)												
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	\$	\$					\$	\$	\$	\$	\$	\$	\$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)													



Part III Covered Individuals
If Employer provided self-insured coverage, check the box and enter the information for each covered individual.

	(a) Name of covered individual(s)	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 months	(e) Months of Coverage											
					Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
17				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
18				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
22				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Notification: §1411 Certification

- Notices of Employee Eligibility for Exchange Subsidies
- Employer has right to appeal within 90 days
- IRS penalty calculation is a separate process
- Benefits to appealing:
 - Minimize employee's potential liability to repay subsidies
 - Additional protection for employer against 4980H penalties





Affordable Care Act Resources

Where do we go for help?

IRS Provided Resources



Affordable Care Act Resources

Topic	Details	Source
ACA Tax Law	IRS ACA Homepage	irs.gov/aca
	6056 Information Reporting Overview	http://www.irs.gov/Affordable-Care-Act/Employers/Information-Reporting-by-Applicable-Large-Employers
	6056 Information Reporting Q&As	http://www.irs.gov/Affordable-Care-Act/Employers/Questions-and-Answers-on-Reporting-of-Offers-of-Health-Insurance-Coverage-by-Employers-Section-6056
	Legal Guidance and Other Resources	irs.gov/Affordable-Care-Act/Affordable-Care-Act-of-2010-News-Releases-Multimedia-and-Legal-Guidance
Final Regulations	6056 Final Regulations	http://www.gpo.gov/fdsys/pkg/FR-2014-03-10/pdf/2014-05050.pdf
Forms and Instructions	Form 1094-C	http://www.irs.gov/pub/irs-pdf/f1094c.pdf
	Form 1095-C	http://www.irs.gov/pub/irs-pdf/f1095c.pdf
	Instructions 1094-C & 1095-C	www.irs.gov/pub/irs-pdf/i109495c.pdf
Other Health Care Information	HHS	HealthCare.gov
	SBA	SBA.gov/healthcare
	DOL	DOL.gov/ebsa/healthreform

From IRS Webcast on August 11, 2015.



How We Can Help

Form 1094/1095 Preparation

- Assist with Data Request
- Prepare Forms 1094 and 1095
- Manage Mailings and Electronic Filing Process

Full-Time Status Determination for §4980H Employer Mandate

- Automate Data Feeds from Payroll and Benefits Systems
- Perform Calculations to Determine ACA Status by FEIN
- Provide Dashboards and Reports

IRC §4980H Penalty Assistance

- Establish Exchange Notice Response Protocols
- Appeal IRS Penalty Assessments



Where to Go for More Information

I'm thinking about: Issues My business or industry

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Find a person
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Recommended for you

- CLA Benefit Plan Wins the 2015 Best in Class 401(k) Award
- How Health Coverage Providers Can Prepare for ACA Reports Due in 2016
- Multiple Triggers Prompt Dealers to Assess Their Benefit Plans
- New CMS Code Allows Reimbursement for Non-Face-to-Face Care Coordination

Find resources

- Articles
- Event calendar
- Presentation slides
- Tools
- Videos
- Webinar recordings
- White papers and reports

ACA Reporting and Compliance Guidance

Is your organization prepared? Meet the ACA's annual reporting requirements and manage risk with tailored guidance from CLA industry professionals.

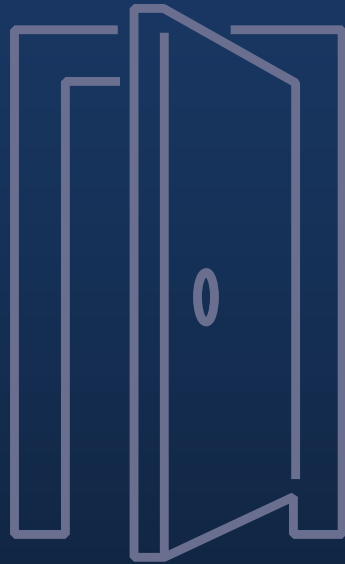
Effective for 2015, applicable large employers must file annual reports and monitor measurement periods to comply with the ACA's employer mandate. We understand the complexity of the health care law and can provide you with easy-to-understand solutions to help reduce your compliance and penalty risk.

Our customizable approach can include everything from preparing Forms 1095 and 1094, assisting with tracking employee status and offerings, IRS penalty assistance, and ACA modeling as needed.

Submit Your Information to Get Started

For additional information, [contact us](#).

CLAcconnect.com/ACAquote/



Rick Krueger, CPA
CliftonLarsonAllen LLP
Richard.Krueger@CLAconnect.com
414-721-7577

For more information on health reform: CLAconnect.com/healthreform
Email our health care reform team at: HealthCareReform@CLAconnect.com

CLAconnect.com