

Supporting Statement

1545-2252

TD 9660

Information Reporting of Minimum Essential Coverage

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Under the Patient Protection and Affordable Care Act, Public Law 111-148, and the Health Care and Education Reconciliation Act, Public Law 111-152, health insurance issuers, employer-sponsored self-insured plans, government-sponsored programs and other persons who provide minimum essential coverage must report information concerning individuals who are enrolled in the coverage

TD 9660 contains final regulations that amend the Income Tax Regulations (26 CFR part 1) under sections 6055 and 6081 and the Procedure and Administration Regulations (26 CFR part 301) under sections 6011, 6721, and 6722, relating to the requirement for providers of minimum essential coverage (as defined in section 5000A(f)) to report to the IRS certain information about individuals covered by minimum essential coverage and to provide a statement to the individuals.

(a) **Information required to be reported.** Section 6055(b)(1) provides that all information returns reporting minimum essential coverage are to contain

- (1) the name, address, and taxpayer identification number of the primary insured and each other individual covered under the policy or plan;
- (2) the dates each individual was covered under minimum essential coverage during the calendar year;
- (3) in the case of health insurance coverage, whether the coverage is a qualified health plan offered through an Exchange;
- (4) if the coverage is a qualified health plan offered through an Exchange, the amount (if any) of any advance payment of the premium tax credit under section 1412 of the ACA or of any cost-sharing reduction under section 1402 of the ACA for each covered individual, and
- (5) other information that the IRS requires under the associated regulations.

Section 6055(b)(2) provides that information returns for minimum essential coverage provided by a health insurance issuer through an employer's group health plan also include

- (1) the name, address, and employer identification number of the employer maintaining the plan, the portion of the premium to be paid by the employer, and any other information that the IRS may require (under the associated regulations) for administering

the tax credit under section 45R (credit for employee health insurance expenses of small employers).

The IRS developed Form 1095-B, Health Insurance Coverage Statement under the authority of IRC section 6055 which was added by ACA, P.L. 111-148, section 1502(a) to report certain information to the IRS and to taxpayers about individuals who are covered by minimum essential coverage and therefore are not liable for the individual shared responsibility payment. Form 1094-B serves as a transmittal for Form 1095-B.

2. **USE OF DATA**

Beginning in 2014, individuals generally must maintain minimum essential coverage or incur liability for a penalty under section 5000A of the Internal Revenue Code (Code). The collection of information is necessary to determine whether individuals are enrolled in minimum essential coverage.

3. **USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

Reporting entities will use electronic media to compile and provide the information to the Internal Revenue Service, but may provide paper information statements to most individuals.

4. **EFFORTS TO IDENTIFY DUPLICATION**

We have attempted to eliminate duplication within the agency wherever possible.

5. **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

6. **CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

7. **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

8. **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

On September 9, 2013, a notice of proposed rulemaking (REG–132455–11) was published in the **Federal Register** (78 FR 54986). Written comments responding to the proposed regulations were received. A public hearing was held on November 19, 2013. The comments are available for public inspection at www.regulations.gov or on request. After consideration of all the comments, the proposed regulations are adopted as amended by Treasury decision,(TD 9660) and were published on March 10, 2014 (79 FR 13227). These final regulations also include certain nonsubstantive revisions to increase consistency with final regulations issued under section 6056 (TD 9661) contemporaneously with these regulations.

In response to the Federal Register Notice dated September 2, 2014 (79 F. R. 52118), we received comments from three organizations that raised issues and concerns with the proposed Form 1094-B (Transmittal of Health Coverage Information Returns), Form 1095-B (Health Coverage), and the related instructions.

The IRS developed Forms 1094–B and 1095–B under the authority of Internal Revenue Code section 6055, added by P.L. 111–148, Patient Protection and Affordable Care Act (ACA), section 1502(a). Section 6055(a) requires every health insurance issuer, sponsor of a self-insured health plan, government agency that administers government sponsored health insurance programs and other entity that provides minimum essential coverage to file annual returns reporting information for each individual for whom minimum essential coverage is provided. Form 1094–B, serves as a transmittal for Form 1095–B, Health Coverage.

We have reviewed all the comments that were submitted. Many of the comments requested clarifications on certain items or line numbers or additional examples. Most of these requests will be adopted and will be addressed in the final release of the instructions for Forms 1094-B and 1095-B.

Specifically, two separate commenters asked that the forms and instruction be clarified so that filers are aware that they can report Taxpayer Identification Numbers (TIN), in addition to Social Security Numbers (SSNs). In general, IRS forms and instructions refer to SSNs rather than TINs. The early release of the Forms 1094-B and 1095-B and instructions followed this protocol. Notwithstanding, in response to the comments received, we have clarified the instructions to put filers on notice that they may report SSN or other TIN.

In addition, one commenter asked that we clarify that filers are not required to provide TIN or SSN for the individual listed on Part I of the Form 1095-B, if that individual is not enrolled in the coverage being reported on the form. In response, the IRS clarified in

the instructions that in this circumstance, no SSN or TIN is required.

Finally, one commentator asked that language be added to note that “your issuer is required to report your complete TIN to the IRS if you have one and are enrolled in the issuer’s health plan.” As noted, we clarified that a TIN can be reported. The instructions the recipient receives have been modified and now read “Line 2 reports your social security number (SSN) or other taxpayer identification number (TIN), if applicable. For your protection, this form may show only the last four digits. However, the coverage provider is required to report your complete SSN or other TIN, if applicable to the IRS.”

Some of the comments that were not adopted were outside the scope of Forms 1094-B and 1095-B. For example, one commenter requested that the IRS expand the Taxpayer Identification Number (TIN) Matching Program to filers of information returns required under Code section 6055. It is our understanding that the IRS does not have the legal authority to do so. Another comment requested relief for a de minimis number of missing TINs. We believe this would require additional legal guidance to be issued before it could be described in instructions to a form.

Similarly, a comment requested additional period of transition relief from TIN solicitation. We note that initial reporting has already been delayed for a year and there is already a relaxed compliance standard for 2015. In any event, we believe further relief is more appropriately granted in legal guidance rather than form instructions.

9. **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Affordable Care Act (ACA)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under; IRS 24.030- Individual Master File, IRS 24.046-Customer Account Data Engine Business Master File, and IRS 34.037- Audit Trail and Security Records System. The Internal Revenue Service PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such

returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

The burden for the collection of information contained in these final regulations (TD 9660) is reflected in the burden on Form 1094-B and 1095-B.

Transmittal of Health Coverage Information Returns (“aggregator” filing for insurance companies) – 1094-B: Filing Form 1094-B is voluntary for tax year 2015 and the number of voluntary issuers is uncertain, but it is estimated that there will be 430 issuers. The average time per issuer of 10 minutes reflects the fact that this is a cover page, there are very few lines to complete, and the information takes minimal effort to obtain.

Health Coverage - 1095-B: Filing Form 1095-B is voluntary for tax year 2015 and the number of voluntary filers is uncertain, but the estimated number of issuers is 430. The total number of Form 1095-B (one per insured “unit”) approaches 4,600,000. The per document average is slightly higher than Form 1095-A because the complexity of the required recordkeeping and reporting for Form 1095-B is beyond what is required in standard business practice. On the other hand, the average time per document is on the low side because the information needed to meet the recordkeeping and reporting requirements is maintained for other business reasons. Also, insurance companies are more likely to be large and, therefore, to have lower document-production costs as a result of the scale.

FY2015	1094-B	1095-B
Total Number of Issuers	430	430
Total Documents Issued	430	4,600,000
Average Documents per Issuer	1	10,698
Average Time per Issuer (Hours)	0.17	200
Average Time per Document (Minutes)	10	1
Total Time - All Issuers (Hours)	72	86,000

13. **ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. **ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

Not applicable.

15. **REASONS FOR CHANGE IN BURDEN**

Requesting OMB approval to add Forms 1094-B and 1095-B to this control number and to receive final approval.

16. **PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

Not applicable.

17. **REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. **EXCEPTIONS TO THE CERTIFICATION STATEMENT**

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.