

SUPPORTING STATEMENT
Internal Revenue Service
Patient Protection and Affordable Care Act
Forms: 1094-C, 1095-C and 4423
TD 9661 (final)

Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered
Under Employer-Sponsored Plans

OMB Control No. 1545-2251

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This collection contains documents providing guidance to employers that are subject to the information reporting requirements under section 6056 of the Internal Revenue Code (Code), enacted by the Affordable Care Act (generally employers with at least 50 full-time employees, including full-time equivalent employees). Section 6056 requires those employers to report to the IRS information about the health care coverage, if any, they offered to full-time employees, in order to administer the employer shared responsibility provisions of section 4980H of the Code.

Section 6056 also requires employers to furnish related statements to their employees. These statements to employees may be used to determine whether, for each month of the calendar year, the employee may claim on their individual tax returns a premium tax credit under section 36B (premium tax credit). The regulations provide for a general reporting method and alternative reporting methods designed to simplify and reduce the cost of reporting for employers subject to the information reporting requirements under section 6056.

Section 6056 states all insurance providers issuing Minimal Essential Coverage and Applicable Large Employers will have the option to begin voluntarily transmitting information returns to meet ACA information reporting requirements in 2015; however, these requirements became mandatory in January 2016, for the 2015 Tax Year. Section 6011(e)(2)(A) of the Internal Revenue Code provides that any person, including a corporation, partnership, individual, estate, or trust, who is required to file 250 or more information returns, must file such returns electronically.

Applicable Large Employer Members (ALE Members) use Forms 1094-C and 1095-C to report the information required under sections 6055 and 6056 regarding offers of health coverage and enrollment in health coverage for their full-time employees.

Form 4423 is for use when a company is a foreign filer that does not have an Employer Identification Number (EIN) and cannot use the electronic application process to apply for an Affordable Care Act Transmitter Control Code.

2. USE OF DATA

This information is collected in accordance with the return and employee statement requirements under section 6056 and is used to administer section 4980H and the premium tax credit.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Consistent with other tax information reporting requirements, the final regulations require electronic filing of section 6056 information returns (Forms 1094-C and 1095-C) except for an ALE member filing fewer than 250 returns under section 6056 during the calendar year, and provide that only section 6056 returns are counted in applying the 250 return threshold for section 6056 reporting.

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.

In addition to electronic filing, Treasury and the IRS understand that electronic methods are often a simpler and more efficient method to supply employees with the required information.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

There is no flexibility to reduce burden on small businesses or other small entities because the statutes apply to small businesses and small entities. Small businesses should not be disadvantaged as the forms have been structured to request the least amount of information and still satisfy the requirements of the statute and the needs of the Service.

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

A less frequent collection on federal programs would result in the IRS unable to verify compliance to determine whether the information has been reported and calculated

correctly for purposes of section 4980H and section 6056, and whether claims for the premium tax credit are correct; thereby endangering the IRS to meet its mission.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Forms 1094-C, 1095-C and Form 4423.

We received comments during the comment period in response to the *Federal Register* notice dated November 1, 2017 (82 FR 50732).

Several commenters were concerned that the estimates materially understated the total annual burden hours for Forms 1094-C and 1095-C, and the type of method used.

In response to comments, IRS explained that the estimates provided in the Federal Register notice were created using the IRS Business Taxpayer Burden Model, which is an econometric model used to estimate business entity (corporation and partnership) tax compliance costs under OMB 1545-0123. The 12-minute estimate is a per-form population average. Larger firms are predicted to experience less than half the per-form costs compared to the population average and smaller firms are predicted to experience more than three times the average per-form cost.

The estimates are based on the assumption that most employers will use software to perform the needed recordkeeping, form completion, and form submission. In addition, it is assumed that existing recordkeeping processes for payroll will be adapted to collect and populate most of the required information. We note that these estimates do not include startup costs, which prior research suggests are typically at least 3 to 4 times ongoing cost. Furthermore, the estimates are based on the assumptions outlined above and the information available at the time.

IRS acknowledge that no model is perfect and not every reporting complication can be

accounted for. As a result, we intend to conduct a survey of Form 1094 and 1095 issuers to gather direct data about the costs associated with these forms in FY18. A report summarizing the results will be released publicly in FY19.

We appreciate the feedback and insights provided for this part of the public feedback process. The upcoming survey and associated model updates will provide opportunities to incorporate some of the insights provided.

Other comments were made about the report TIGTA issued on April 7, 2017 (#2017-43-027) proposing the IRS had processed 439,201 Forms 1094-C and nearly 110 million Forms 1095-C.

In response to the comment, IRS explained that their figures are different for two primary reasons:

1. The TIGTA figures appear to include forms created and issued by the federal government. Taxpayer burden does not include compliance costs incurred by the federal government, so the estimated form counts for the Form 1094-C and Form 1095-C that were provided in FRN do not include forms created by the federal government.
2. The TIGTA figures appear to be simple counts of forms filed that do not address duplicative records. The estimates provided in the FRN were created with controls for duplicative records.

In addition, the commenter also asked, why, did the number of respondents increase by a factor of 27 times?

In response to the comment, IRS explained that the initial collection request was based on the year when Forms 1094-C and 1095-C was voluntary and based on an estimated number of filings. The increased filings for this collection request are based on the forms being required and the observed prior year filing volumes.

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

No payment or gift has been provided to any respondents.

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 <https://www.irs.gov/pub/irs-pia/aca-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 collection of information contained in these final regulations (TD 9661) will be reflected in the burden on Form 1094-C, Form 1095-C and Form 4423 the IRS designates, which will request the information contained in 26 CFR 301.6056-1 and 301.6056-2 of these final regulations.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC 6056	Form 1094-C	400,000	1	400,000	4 hrs.	1,600,000
	Form 1095-C	105,000,000		105,000,000	12 min.	21,000,000
	Form 4423	6		6	20 min.	2
Totals		105,400,006		105,400,006		22,600,002

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE IN BURDEN

There is no change to this existing regulation. However, the agency has updated the number of respondents to reflect the most recent data available.

The initial collection request was based on the year when Forms 1094-C and 1095-C was voluntary and based on an estimated number of filings. The increased filings for this collection request are based on the forms being required and the observed prior year filing volumes.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	105,400,006	0	0	101,535,000	0	3,865,006
Annual Time Burden (Hr)	22,600,002	0	0	21,790,000	0	810,002
Annual Cost Burden (\$)	0	0	0	0	0	0

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS 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

There are no exceptions to the certification statement.

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.