



## IRS clarifies ACA reporting of taxpayer identification numbers and health reimbursement arrangements

In [Notice 2015-68](#), the IRS announced its intention to propose new regulations under Section 6055. Section 6055 was added to the Internal Revenue Code by the Affordable Care Act (ACA) and requires providers of minimum essential health coverage to report the enrollment of individuals in that coverage. This information reporting facilitates the filing of individual tax returns regarding the individual mandate tax under Section 5000A.

Notice 2015-68 identifies changes or clarifications in distinct areas:

- 1. Coverage under catastrophic health plans** – The notice provides that issuers of catastrophic health plans offered on the health insurance marketplaces are required to provide a statement on Form 1095-B to any enrollee in the coverage. This requirement will be effective for coverage in force in the 2016 calendar year (reported in early 2017).
- 2. Truncated taxpayer identification numbers** – The notice specifies that future regulations will permit health insurance insurers furnishing Form 1095-B statements to employees covered under an employer's insured group health plan to use a truncated taxpayer identification number (TIN) for the employer.
- 3. TIN solicitation** – The notice indicates that the IRS is seeking comments on the TIN solicitation required for the reporting of Section 6055 information. The Section 6055 regulations provided that TINs must be solicited in the same manner as required for general financial information reporting (such as used for Forms 1099.) The IRS has received comments that Section 6055 reporting has significant differences from financial information reporting and that the reasonable cause exceptions for Section 6055 TIN solicitation is not adequately addressed by the existing regulations.

Notice 2015-68 establishes an interim process for establishing reasonable cause for this purpose:

- (i) The initial solicitation is made at an individual's first enrollment or, if already enrolled on September 17, 2015, the next open season

(ii) The second solicitation is made at a reasonable time thereafter

(iii) The third solicitation is made by December 31 of the year following the initial solicitation

Additionally, a reporting entity is not required to solicit a TIN from an individual whose coverage is terminated.

**4. Coverage under expatriate plans** – Under the Expatriate Health Coverage Clarification Act of 2014, employees are deemed to consent to electronic delivery of the statement, unless the expatriate explicitly refuses to consent. The notice indicates that the regulations under Section 6055 will be updated to reflect this change in law.

**5. Supplemental coverage** – The notice specifies that an employer will have to report coverage under a health reimbursement arrangement (HRA) that supplements other coverage only when the other coverage is provided by a different plan sponsor. This guidance will alleviate some of the concerns related to reporting of supplemental coverage that arose in response to the draft instructions to Forms 1095-B and 1094-B published in August.

The draft instructions to the Forms 1095-B and 1094-B stated that "[c]overage isn't provided by the same plan sponsor if [the coverage plans] aren't reported by the same reporting entity. Thus, an insured group health plan and a self-insured health reimbursement arrangement covering the employees of the same employer aren't supplemental." Under this guidance, an employer that sponsored an insured medical plan that it supplemented with an HRA was not considered a supplemental arrangement. Consequently, the employer was required to report an employee's enrollment in the HRA on Forms 1095-C and 1094-C, even though the health insurance issuer was also required to report the employee's coverage in the employer's insured medical plan on Forms 1095-B and 1094-B.

Notice 2015-68 expressly reverses this outcome, stating that an employer will not have to report an HRA that supplements an insured group health plan sponsored by the employer. An employer must, however, report the coverage and enrollment of an employee whose HRA supplements a plan not sponsored by that employer (e.g., an HRA supplementing the employee's coverage under the employee's spouse's employer health plan).

### **Ernst & Young LLP insights**

This notice provides employers and health insurance issuers with some relief as they move forward to complete their 2015 ACA information reporting.

The South Dakota state unemployment insurance (SUI) tax rates for 2016 will continue to range from 0.0% to 9.5%, plus the investment fee surcharge which ranges from 0.0% to 0.53% for experience-rated employers.

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