



October 3, 2016

Submitted electronically via: www.regulations.gov

CC:PA:LPD:PR (REG-103058-16)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington DC 20044

**Re: Information Reporting of Catastrophic Health Coverage and Other Issues
Under Section 6055**

Dear Sir or Madam:

The National Business Group on Health is pleased to respond to the Internal Revenue Service's proposed regulations relating to information reporting of minimum essential coverage under section 6055 of the Internal Revenue Code.

The National Business Group on Health represents 420 primarily large employers, including 72 of the Fortune 100, who voluntarily provide group health plan coverage and other employee benefit plans to over 55 million American employees, retirees, and their families. Our members employ and provide health benefits for employees under a wide variety of work arrangements, including full-time, part-time, seasonal, and temporary. In addition, our members often operate multiple lines of business and tailor employee work and benefit arrangements to the specific needs of each line of business.

As our members continue to implement the requirements of Code sections 6055 and other Code provisions under the Affordable Care Act, primary concerns will be (1) minimizing the administrative and cost burdens associated with those requirements and (2) ensuring accurate information reporting to reduce erroneous assessments of employer shared responsibility payments under § 4980H. Allowing plan sponsors flexibility to adapt their ACA compliance procedures to existing work, benefit, and payroll arrangements will reduce these burdens and allow plan sponsors to devote more resources toward maintaining and improving health benefits for their employees. Therefore, the National Business Group on Health welcomes the Service's efforts to minimize administrative burden and duplicative reporting and supports the proposed Treas. Reg. § 1.6055-1(d).

However, we also encourage the Service, in finalizing § 6055 regulations, to include guidance that takes into account the plan design features and administrative practices typical of large, self-insured employer-sponsored plans by:

- (1) Including the option to make TIN solicitations in accordance with the schedule detailed in Notice 2015-68 or the proposed Treas. Reg. § 1.6055-1(h);**
- (2) Including examples of proper documentation for TIN solicitations, such as maintaining a written record of the date an employer sends or e-mails a solicitation;**
- (3) Including examples of the solicitation process for the most common enrollment scenarios such as annual open enrollment, mid-year employee enrollment, and mid-year enrollment of a new spouse or child; and**
- (4) Providing relief from applicable penalties when employers make reasonable, good faith efforts to comply with § 6055.**

We provide further discussion of these recommendations below.

I. Current Plan Administration, Payroll, and Recordkeeping

As noted above, the National Business Group on Health supports the Service's efforts to minimize the administrative burden of reporting under Code § 6055. To that end, we ask the Service to consider our members' concerns regarding TIN solicitations, which include the following:

- Many of our members who offer dependent coverage do not maintain names, addresses, and TINs of dependents because they offer limited tiers of coverage, such as employee only and employee-plus-family. For these members, providing information on coverage months and TINs for individual employees and dependents have involved substantial changes to administrative procedures and reprogramming of payroll and recordkeeping systems, at substantial cost.
- Self-insured group health plans generally conduct enrollments annually over a limited period—often electronically—and do not have a separate date on which an account is “opened” or by which employees submit completed applications for coverage. Therefore, for many self-insured group health plans, the 75-day deadline for first annual TIN solicitations is impractical.
- In some cases, an employee will be re-hired mid-plan year and therefore will enroll in an employer's group health plan more than once within a plan year. In such cases, the proposed schedule for TIN solicitations will require multiple solicitations within a plan year.
- Our members are also concerned that tracking the 75-day deadline when participants such as new spouses and children enroll mid-plan year will cause undue administrative burdens and result in inadvertent errors in the TIN solicitation process.

For the reasons described above, the National Business Group on Health recommends that final regulations allow flexibility such that plan sponsors have the option to make TIN solicitations in accordance with the schedule detailed in Notice 2015-68 *or* the proposed Treas. Reg. § 1.6055-1(h). We also recommend that final regulations or future guidance include examples of proper documentation for TIN solicitations (such as maintaining a written record of the date an employer sends or e-mails a solicitation) and examples of the solicitation process for the most common enrollment scenarios, such as annual open enrollment, mid-year employee enrollment and re-enrollment, and mid-year enrollment of a new spouse or child.

II. Relief from Applicable Penalties

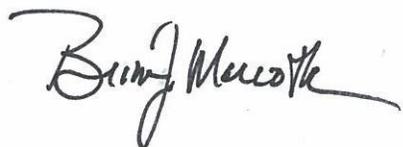
Complying with § 6055—including the revised forms and instructions for 2016—will involve reprogramming of our members' payroll and recordkeeping systems. Because the 2016 Form 1095-C includes new codes and instructions, it is likely that Forms 1095-C for 2016 will include inadvertent errors as employers and their third-party vendors adjust their reporting systems. Such errors also are likely to occur in situations such as mergers and acquisitions among different employers, when employers may need to transition employees from one plan and recordkeeping system to another.

In addition, employees sometimes must notify plan sponsors of eligibility changes that may affect information on the Form 1095-C, such as when a spouse becomes eligible or ineligible for his or her own employer-sponsored coverage, which then affects eligibility under the other spouse's employer-sponsored plan. Plan sponsors often do not receive such notification immediately—sometimes not until months after the event—which may necessitate retroactive coverage changes. These scenarios may result in inadvertent errors in Forms 1094-C and 1095-C, particularly if events causing eligibility changes occur near the filing date.

Therefore, we recommend that the Service extend, through 2016, relief from penalties under Code §§ 6721 and 6722 when filers can show they made good faith efforts to comply with the 2016 information reporting requirements.

Again, thank you for considering our comments and recommendations on the Service's proposed regulations related to information reporting under Code § 6055. Please contact me or Steven Wojcik, the National Business Group on Health's Vice President of Public Policy, at (202) 558-3012 if you would like to discuss our comments in more detail.

Sincerely,



Brian J. Marcotte
President and CEO