

Supporting Statement

REG-136630-12 – Information Reporting by Applicable Large Employers on
Health Insurance Coverage Offered Under Employer-Sponsored Plans
OMB No. 1545-New

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This document contains regulations providing guidance to employers that are subject to the information reporting requirements under section 6056 of the Internal Revenue Code (Code), enacted by section 1514(a) of the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)), amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 (124 Stat. 1029 (2010)).

Section 6056 requires those employers to report to the IRS information about their compliance with the employer shared responsibility provisions of section 4980H of the Code and about the health care coverage, if any, they have offered employees. Section 6056 also requires those employers to furnish related statements to employees in order that employees may use the statements to help determine whether, for each month of the calendar year, they can claim on their tax returns a premium tax credit under section 36B of the Code (premium tax credit). In addition, that information will be used by the IRS to administer and ensure compliance with the eligibility requirements for the premium tax credit. The regulations provide for a general reporting method and optional alternative reporting methods designed to simplify and reduce the cost of reporting for employers subject to the information reporting requirements under section 6056. The regulations affect applicable large employers (generally meaning employers with 50 or more full-time employees, including full-time equivalent employees, in the prior year), employees and other individuals.

2. USE OF DATA

These regulations affect applicable large employers, as defined under section 4980H(c) (2). This information will be used by the IRS to verify compliance with the return and employee statement requirements under section 6056 for purposes of section 4980H, and with the eligibility requirements for the premium tax credit. This information will be used 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

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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

Not applicable.

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

The Treasury Department and the IRS have published four notices addressing issues under section 4980H. Each notice, briefly outlined potential approaches to future guidance, and each requested public comments.

See Notice 2011–36 (2011–21 IRB 792), Notice 2011–73(2011–40 IRB 474), Notice 2012–17 (2012–9 IRB 430), and Notice 2012–58 (2012–41 IRB 436). Notice 2012–58 also provided guidance that taxpayers may rely upon for periods specified in the notice. Extensive public comments were submitted in response to each of the four notices. On December 28, 2012, Treasury and the IRS released proposed regulations under section 4980H. The proposed regulations under section 4980H were published in the *Federal Register* on January 2, 2013 (REG–138006–12 [78 FR 218]). Section 4980H is effective for months after December 31, 2013; however, Notice 2013–45, issued on July 9, 2013, provides transition relief for 2014 from the section 4980H employer shared responsibility provisions.

Proposed regulations under section 6056 were published in the *Federal Register* on September 9, 2013 (REG-136630-12 [78 FR 54996]). The proposed regulations provide guidance on the reporting method proposed to implement the statutory provisions of section 6056 (referred to as the general method), and discuss a variety of potential simplified reporting methods, on which public comments were requested. A public hearing was conducted on November 18, 2013. Comments received will be considered in the development of final regulations.

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

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information in these regulations is in §§ 301.6011–9, 301.6056–1, and 301.6056–2. This information will be used by the IRS to verify compliance with the return and employee statement requirements under section 6056 for purposes of section 4980H, and with the eligibility requirements for the premium tax credit. This information will be used 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.

These regulations provide that the section 6056 return may be made by filing Form 1094-C (a transmittal) and Form 1095-C (an employee statement), or other forms the IRS designates. We are requesting a 1 hour placeholder pending availability of draft form.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, REG-136630-12 (78 FR 54996) dated September 9, 2013, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

This is a new collection.

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.