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## Draft Forms and Instructions for Employer Reporting of Health Coverage Released

On Aug. 28, 2014, the Internal Revenue Service (IRS) released draft instructions for the forms that employers will use to report under Code Sections 6055 and 6056. Created under the Affordable Care Act (ACA), the Code Sections 6055 and 6056 reporting requirements are intended to promote transparency with respect to health plan coverage and costs while also providing the government with information to administer other ACA mandates.

Under these new reporting rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees.

Originally scheduled to take effect in 2014, the U.S. Treasury Department announced in July that employers will have an additional year to comply with these reporting requirements.

## IRS Expands Rules for Mid-year Election Changes Under Cafeteria Plans

On Sept. 18, 2014, the IRS issued [Notice 2014-55](#), which allows cafeteria plans to permit mid-year election changes in certain situations related to the availability of Marketplace coverage.

This guidance will be welcomed by individuals whose ability to enroll in coverage under a Marketplace plan would have been limited by current IRS regulations.

In most cases, a participant may not change his or her elections under a cafeteria plan during the period of coverage (usually the plan year). However, there are limited exceptions for certain changes in status, if permitted by the plan and if the election change is consistent with the change in status.

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## Mid-year Election Changes – Cont.

Notice 2014-55 addresses cafeteria plan elections in two specific situations related to the availability of coverage through the Marketplace. An employee may want to revoke an election for health coverage under his or her employer's plan in order to purchase coverage through the Marketplace if:

- His or her weekly hours of service fall below 30, but there is no change in his or her eligibility status regarding the employer health plan.
- He or she would like to drop employer coverage in favor of Marketplace coverage without having overlapping coverage or a gap in coverage.

Notice 2014-55 permits a cafeteria plan to allow employees to prospectively revoke an election for coverage under the employer's group health plan (if it is not a health FSA and provides minimum essential coverage) during a period of coverage.

The rule change allows individuals in a non-calendar year plan to drop employer cafeteria plans in favor of a Marketplace plan (which are only offered during certain times of the year).

It would also allow an individual to revoke an election under an employer's plan to enroll in another plan if his or her hours of service (and income) are reduced, but his or her eligibility does not change.

Plan documents must be amended and certain conditions must be met for the changes to be permitted. Elections to revoke coverage on a retroactive basis are not allowed.

The IRS intends to modify the regulations under Code Section 125 to be consistent with this notice, but taxpayers may rely on this guidance immediately.

## IRS Proposes Approach for Pay or Play Measurement Period Changes

Beginning in 2015, the employer shared responsibility rules under the ACA require ALEs to offer affordable, minimum value health coverage to their full-time employees (and dependents) or pay a penalty. Final regulations provide an optional safe harbor method, called the look-back measurement method, which employers can use to determine full-time employee status.

On Sept. 18, 2014, the IRS issued [Notice 2014-49](#), which describes a proposed way to apply the look-back measurement method if the measurement period for a particular employee changes. This notice addresses measurement period changes resulting from the following situations:

- An employee transfers from one position to another within the same ALE, where a different measurement period is used for each position.
- The ALE changes the measurement period applicable to a category of employees.

In general, for an employee who is **in a stability period** (or administrative period) at the time of transfer, the employee retains his or her status through the end of that stability period. For an employee who is **not in a stability period** (or administrative period) at the time of transfer, the employee's status is determined using the measurement period applicable to his or her second position, but including hours of service in the first position.

The approach proposed in Notice 2014-49 is not finalized, and the IRS has invited comments on the proposal. However, taxpayers may rely on the proposed approach until further guidance is issued, at least through the end of 2016.

## Reporting Draft Forms – Cont.

**[Instructions for Forms 1094-B and 1095-B](#)**: These forms will be used by entities reporting under Section 6055 as health insurance issuers, sponsors of self-insured group health plans that are not reporting as applicable large employers (ALEs), sponsors of multiemployer plans and providers of government-sponsored coverage.

**[Instructions for Forms 1094-C and 1095-C](#)**: These forms will be used by ALEs that are reporting under Section 6056, as well as for combined reporting by ALEs who report under both Sections 6055 and 6056.

According to the IRS, these draft forms and instructions are intended to help stakeholders (including employers, tax professionals and software providers) prepare for these new reporting provisions. These forms and instructions are draft versions only, and they should not be filed with the IRS or relied upon for filing. The IRS may make changes prior to releasing final versions.

The IRS expects both the forms and the instructions to be finalized later this year. Due to the one-year delay, the first returns required to be filed are for the 2015 calendar year, and must be filed no later than **Feb. 29, 2016** (Feb. 28, 2016, being a Sunday), or **March 31, 2016**, if filed electronically.

On Aug. 29, 2014, the IRS also released [Q&As on Section 6055](#) and [Q&As on Section 6056](#). Draft Forms 1095-B and 1095-C were also updated on Aug. 28, 2014, to include instructions for the recipient of the form.

Please contact your Brown & Brown Benefit Advisors representative for more information.

## PCORI Fee Amount Adjusted for 2014

On Sept. 18, 2014, the IRS published [Notice 2014-56](#), which provides the adjusted Patient-centered Outcomes Research Institute (PCORI) fee amount for plan years that end on or after Oct. 1, 2014, and before Oct. 1, 2015.

Established by the ACA, the PCORI fee is assessed on health insurance issuers and self-insured plan sponsors in order to fund comparative effectiveness research. The PCORI fees apply for plan years ending on or after Oct. 1, 2012, but *do not apply* for plan years ending on or after Oct. 1, 2019. For calendar year plans, the fees will be effective for the 2012 through 2018 plan years.

Issuers and plan sponsors must pay PCORI fees annually on IRS Form 720 by July 31 of each year. The fee will generally cover plan years that end during the preceding calendar year.

The PCORI fees are calculated by multiplying an applicable rate for each tax year by the average number of lives covered under the plan. The applicable rate for each tax year is as follows:

- **\$1** for plan years ending before Oct. 1, 2013 (that is, 2012 for calendar year plans); and
- **\$2** for plan years ending on or after Oct. 1, 2013, and before Oct. 1, 2014.

For plan years ending on or after Oct. 1, 2014, and before Oct. 1, 2015, the PCORI fee amount is **\$2.08** multiplied by the average number of lives covered under the plan.

In the future, the IRS will publish the adjusted PCORI fee amounts for plan years ending on or after Oct. 1, 2015, and before Oct. 1, 2019.

*The information contained in this newsletter is not intended as legal or medical advice.*

*Please consult a professional for more information.*

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