Health Care Reform
Bulletin

Penalties Increased for Section 6055 and Section 6056 Reporting Violations

Provided by Sullivan Benefits

Quick Facts

- Signed into law on June 29, 2015, the Trade Preferences Extension Act of 2015 increases the penalties for reporting entities that fail to comply with Section 6055 or 6056 reporting.
- The increased penalties take effect for returns and statements filed in 2016.
- Short-term relief from penalties is available in certain limited circumstances.

Effective for returns and statements filed in 2016, the Trade Preferences Extension Act of 2015 significantly increases the penalties for violations of the Section 6055 or Section 6056 reporting requirements.

The Affordable Care Act (ACA) created new reporting requirements under Internal Revenue Code (Code) Section 6055 and 6056. These new reporting rules require certain employers to report information to the Internal Revenue Service (IRS) on the health coverage offered during the year. Related statements must also be provided to individuals.

On June 29, 2015, President Barack Obama signed the **Trade Preferences Extension Act of 2015** into law, which **increases penalties** for the failure to file correct information returns or to provide individual statements under either Section 6055 or Section 6056. **These changes are effective for information returns and individual statements required to be filed or provided after Dec. 31, 2015**.

Overview of Section 6055 & 6056 Reporting

Section 6055 applies to providers of minimum essential coverage (MEC), which generally includes health insurance issuers, self-insured plan sponsors and government-sponsored programs. Section 6055 reporting will be accomplished using Forms 1094-B and 1095-B.

Section 6056 applies to applicable large employers (ALEs) subject to the ACA's employer shared responsibility rules.

Under Section 6056, ALEs will use Forms 1094-C and 1095-C to satisfy their reporting obligations.

Reporting Violations

A reporting entity that fails to comply with the Section 6055 or Section 6056 reporting requirements may be subject to the general reporting penalties under the tax code for:

- Failure to file correct information returns (under Code Section 6721); and
- Failure to furnish correct payee statements (under Code Section 6722).

Penalties may be reduced if the reporting entity corrects the failure within a certain period of time. In addition, lower annual maximums apply for reporting entities that have average annual gross receipts of up to $5 million for the three most recent taxable years.

Adjusted Penalty Amounts

Effective for returns and statements required to be filed in 2016, the Trade Preferences Extension Act of 2015 significantly increases the penalties for reporting entities that fail to comply with the Section 6055 or Section 6056 reporting requirements.

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The increased penalty amounts are as follows:

- ***General penalty amount***: **$250** for each return (increased from $100), up to an annual maximum of **$3 million** per calendar year (increased from $1.5 million). The annual maximum for employers with up to $5 million in annual gross receipts is **$1 million** (increased from $500,000).

- ***Violations corrected within 30 days***: **$50** for each return (increased from $30), up to an annual maximum of **$500,000** per calendar year (increased from $250,000). The annual maximum for employers with up to $5 million in annual gross receipts is **$175,000** (increased from $75,000).

- ***Violations corrected before Aug. 1***: **$100** for each return (increased from $60), up to an annual maximum of **$1.5 million** per calendar year (increased from $500,000). The annual maximum for employers with up to $5 million in annual gross receipts is **$500,000** (increased from $200,000).

- ***Violations due to intentional disregard***: **$500** for each return (or, if greater, 10 percent of the aggregate amount of the items required to be reported correctly) (increased from $250), with no annual maximum.

Short-term Relief from Penalties

Short-term relief from penalties is available, to allow additional time for developing appropriate procedures for data collection and compliance with these new reporting requirements.

For returns and statements filed and furnished in 2016 to report offers of coverage in 2015, the IRS will not impose penalties on reporting entities that can show they make good faith efforts to comply with the information reporting requirements.

This relief is provided only for incorrect or incomplete information reported on the return or statement, including Social Security numbers, taxpayer identification numbers or birthdates. No relief is provided for reporting entities that:

- Do not make a good faith effort to comply with these reporting regulations; or

- Fail to file an information return or provide an individual statement on time.

Action Items for Employers

The Section 6055 and Section 6056 requirements took effect for the 2015 calendar year. The first returns will be due in 2016, with information related to the coverage offered or provided in 2015.

Reporting under Section 6055 and Section 6056 is done on a **calendar-year basis**, regardless of whether the employer has a non-calendar year plan. Employers will need to have information for the full 2015 calendar year in order to file complete and accurate reports in 2016.

This means that employers will need to collect and record information in 2015 in order to prepare for the filing deadlines in 2016. Employers should begin tracking this information now to avoid penalties for failure to comply with these reporting requirements.

More Information

Please contact Sullivan Benefits for more information on Section 6055 and Section 6056 reporting.