

The Baldwin Regulatory Compliance Collaborative

# ACA Information Reporting: Employer Corrections, Replacements and TIN Errors



# ACA Information Reporting: Corrections and Replacements

## Annual ACA Information Reporting: Overview of Employer Corrective Opportunities

### *Part One: Introduction to Information Reporting Corrections and Replacements*

The Patient Protection and Affordable Care Act (the “ACA”) added Sections 6055 and 6056 to the Internal Revenue Code (the “IRC”). Sections 6055 and 6056, along with implementing agency regulations and additional sub-regulatory guidance from the Internal Revenue Service (“IRS”), were developed to guide applicable large employers in development, dissemination, transmittal, and filing of their annual employer information reporting obligations arising in connection with the ACA’s employer shared responsibility provisions (also referred to as the “employer mandate”). An employer’s performance of the reporting requirements of Sections 6055 and 6056 is generally accomplished with development, dissemination, and transmittal of the employer’s completed IRS Forms 1095-C and 1094-C.

Notably, development of IRS Forms 1094-C and 1095-C can easily transform into a time-consuming, complex, and frustrating enterprise. This is because development of Forms 1094-C and 1095-C is a multi-phased endeavor which requires an employer to manage and evaluate an extensive archive of historical operation information, consisting of hours of service performed by workers, plan enrollment dates, status of plan participation of workers, their spouses and dependents, and more. Furthermore, the process may be complicated by delays, errors, and other complications in dealings with payroll vendors, third-party administrators, insurance carriers, and the like. Consequently, reporting activities frequently give rise to additional employer obligations related to amendment, correction, or replacement of employer reporting forms.

This employer resource guide provides an overview of several types of corrective opportunities available to reporting employers to the extent they discover, or are otherwise alerted to, errors in their ACA information reporting forms, failed electronic transmissions, inadvertently excluded information, or undelivered participant statements.

# ACA Information Reporting: Corrections and Replacements

## *Part Two: Overview of Employer Corrective Opportunities*

This employer resource kit outlines different types of corrective opportunities employers may utilize to amend, redistribute, or retransmit prior-transmitted or undelivered reporting Forms 1094-C and 1095-C. These four types of employer corrective opportunities are summarized in the following Table One:

<b>TABLE ONE: Employer Information Reporting Corrective Opportunities</b>	
<b>Type of Correction:</b>	<b>Purpose for Corrective Methodology:</b>
<b>Corrected Employer Reporting Forms Filed with the IRS</b>	<b>Correction of erroneous or inadvertently excluded information reported in Forms 1094-C or 1095-C</b>
<b>Replacement Filings for Failed Electronic Transmittals to the IRS</b>	<b>Correction of Forms 1094-C and 1095-C transmittals that are rejected by the IRS AIR System</b>
<b>Correction of TIN Errors and Omissions</b>	<b>A specific and frequent type of error requiring performance of a particularized replacement filing methodology</b>
<b>Redelivery of Lost, Undelivered, or Corrected Participant Statements</b>	<b>Redelivery of lost or otherwise undelivered participant Form 1095-C or corrected participant statements.</b>

As detailed in the foregoing Table One, each of the four corrective opportunities that are available to reporting employers has a distinct corrective purpose. Underlying each of the corrective opportunities, there are a range of specific administrative requirements employers must undertake to assure that a compliant and comprehensive corrective operation has been conducted. The remaining sections of this employer guide explain each corrective opportunity in terms of the type of correction and detail the underlying administrative requirements a reporting employer must perform in order to assure a properly performed corrective process.

# ACA Information Reporting: Corrections and Replacements

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## *Part Three: Summary of Requirements for Corrective Methodologies*

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### **I. Correction of Employer Reporting Submitted to the IRS.**

The first of the four corrective methodologies detailed in this guide is the standard correction process for reporting employers. Frequently, after electronically transmitting or mailing its annual ACA information reporting forms, a reporting employer discovers, or is otherwise directed to, informational errors or inadvertently excluded information respecting its Forms 1094-C and/or 1095-C.

#### ***a) Penalties associated with employer corrections***

Upon discovery or receiving notice of any reporting errors or exclusions, the reporting employer should conduct corrective operations as soon as is practically possible in order to mitigate the potential for monetary penalties. Respecting any information reporting forms an employer corrects within 30 days following the initial transmittal or agency delivery date, the IRS may impose a reduced civil monetary penalty assessment upon reporting the employer of \$50 (subject to annual indexing) per late or corrected return filed by the employer. This penalty is assessed on an individual return basis up to a maximum total annual employer penalty assessment equaling no greater than \$500,000 (subject to annual indexing). However, to the extent a reporting employer makes required corrections after the 30 days, but on or before August 1<sup>st</sup> of the year in which the original form was filed with the IRS, then the per-return maximum individual penalty is reduced to an assessment of \$100 (subject to annual indexing), with a maximum per-employer annual penalty assessment equaling no greater than \$1,500,000 (subject to annual indexing). Failures that have not been corrected on or before August 1<sup>st</sup> can result in a penalty amount of \$250 (subject to annual indexing), and a calendar-year cap of \$3,000,000 (subject to annual indexing). The referenced penalty caps may be reduced for employers with lower levels of average annual gross receipts.

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## ***b) Underlying administrative process***

Upon identification or notification of an erroneous or incomplete information reporting form, the reporting employer should prepare a new corrective filing of the erroneous or incomplete prior filed form.

The newly prepared and corrected information reporting form should be resubmitted to the IRS utilizing the same filing methodology utilized at the time the original filing was submitted to the agency. Following, please find specific instructions applicable, depending upon the type of form being submitted to the IRS for correction.

### ***i. Correcting Form 1094-C.***

Respecting the correction of an employer's previously filed Form 1094-C, the reporting employer should draft a new authoritative transmittal Form 1094-C, making sure to place an "X" in the "Corrected" box located at the top of the form. Then, having prepared the revised Form 1094-C with the "Corrected" box selected, the reporting employer should resubmit the amended and corrected Form 1094-C to the IRS under the same submission methodology as was utilized for the original submission. The corrected Form 1094-C should be submitted on a stand-alone basis; that is, the reporting employer should not attach duplicates of its prior submitted Forms 1095-C when submitting a corrective filing of a Form 1094-C.

### ***ii. Correcting Form 1095-C.***

Respecting the correction of any, or all, of an employer's previously filed Forms 1095-C, the reporting employer should draft amended and corrected Form 1095-C statements, making sure to write or type the word "Corrected" on the top right-hand side of each corrected Form 1095-C. This process also applies in the instance the employer is reporting a retroactive change in coverage that was not previously reported on a previously-filed Form 1095-C. Then, having prepared the amended and corrected Form(s) 1095-C, the newly prepared form(s) should be resubmitted to the IRS under the same submission methodology as that which was utilized for the original submission. However, note that any corrected Forms 1095-C must be accompanied by a new Form 1094-C.

# ACA Information Reporting: Corrections and Replacements

The new Form 1094-C (nonauthoritative) should not be marked as “Corrected”; instead, only the revised 1095-C should be marked as “Corrected.” Also, remember that to the extent any Forms 1095-C are amended and corrected, affected participants must be sent amended and corrected Forms 1095-C. Amended participant statements should be mailed at the same time the corrected forms are submitted to the IRS.

## II. Replacement of an Employer Reporting Electronically Transmitted to the IRS.

A second type of corrective methodology is utilized when the IRS rejects a reporting employer’s electronically transmitted Form 1094-C or 1095-C, necessitating the employer’s preparation and submission of a replacement filing with the agency. Electronically transmitted employer reporting forms may be rejected for any number of reasons including, without limitation:

- Missing employer demographic information;
- Missing employee, spouse or dependent demographic information (including incorrect, incomplete, or excluded Taxpayer Identification Numbers (“TIN’s”) (*covered separately in Subsection III, below*);
- Incorrectly reported ALE related organizational information;
- Utilization of a draft employer reporting form from the IRS, rather than an agency published final form;
- Utilization of an expired employer reporting Form 1094-C or 1095-C;
- Failure to follow instructions related to code set inputs for offers of coverage and other coverage indicators, such as affordability, minimum value, and contingent coverage offerings.

When a reporting employer receives an electronic notice that an information reporting form transmittal is rejected by the IRS, the notice should include a TPE error code or AIR error code. This code will identify the specific error(s) which resulted in the rejection of the employer’s electronic transmittal.

# ACA Information Reporting: TIN Errors and Omissions

Upon receipt of an electronic notice of rejection, the reporting employer should prepare a corrective information reporting form (making sure to remedy the incorrect or omitted information which resulted in the rejection of the original filing), then re-submitting such corrected document as quickly as possible. The replacement transmissions must include the unique transmission identified (UTID) and the original Receipt ID (if one was received) from the rejected filing. Also, the replacement filing should clearly specify “R” (replacement) as the Transmission Type Code.

### **III. Correction of TIN Errors and Omissions.**

A specific sub-set of the second type of corrective methodology detailed above is the preparation and submission of a replacement filing required to the extent a reporting employer’s Form 1095-C is rejected due to Taxpayer Identification Number (“TIN”) errors or omissions. Because TIN errors and omissions require an expended and particularized corrective methodology, correction of these types of errors is detailed in this separate subsection.

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***Note: Respecting enrolled dependents, the IRS may waive applicable penalties to the extent a reporting failure is due to reasonable cause and not due to willful neglect.***

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To the extent a reporting employer fails to completely and accurately enter a required TIN, such employer is deemed to be acting in a “responsible manner” to the extent a missing or inaccurate TIN for an enrolled dependent is corrected on a timely basis via solicitation of the inaccurate or omitted TIN at three specific intervals. Upon the reporting employer’s demonstration of performance of the three specific TIN solicitations, the reporting employer is permitted to report the date of birth (“DOB”) of the *enrolled dependent*, rather than a TIN for the enrolled dependent.

***a) In the case of a missing TIN, a reporting employer is treated as acting in a responsible manner in soliciting the TIN if the employer makes:***

# ACA Information Reporting: TIN Errors and Omissions

- i. An initial solicitation at the time of application for coverage/first enrollment;
- ii. A first annual solicitation within 75 days after the date of application for coverage (or, in the case of retroactive coverage, within 75 days after the determination of retroactive coverage is made); and,
- iii. A second annual solicitation by December 31 of the year following the year in which the initial application for coverage was made.

If the reporting entity has made these solicitations and still has not received an enrolled dependent's TIN, it can report such dependent's DOB instead of the TIN.

***b) In the case of an incorrect TIN, a reporting employer is treated as acting in a responsible manner in soliciting the TIN if the employer makes:***

- i. An initial solicitation at the time of application for coverage/first enrollment;
- ii. A first annual solicitation within 75 days after the date of application for coverage (or, in the case of retroactive coverage, within 75 days after the determination of retroactive coverage is made); and,
- iii. A second annual solicitation by December 31 of the year following the year in which the initial application for coverage was made).

If the reporting entity has made these solicitations and still has not received dependents' TINs, it may report each dependent's birth date instead of the TIN.



# ACA Information Reporting: TIN Errors and Omissions

Note that a TIN error message (of a non-match) is neither a notice of a proposed civil penalty nor a requirement that the filer must solicit a TIN in response to the error message. Further, there is no agency-imposed requirement to file corrected returns respecting incomplete or inaccurate TINs, to the extent the reasonable cause criteria detailed above is satisfied by the reporting employer (*see: IRS Publication 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs*).

## **IV. Redelivery of Lost, Undelivered, or Corrected Participant Statements.**

A third and final type of corrective methodology is utilized when a reporting employer must redeliver a lost, undelivered, or corrected employee statement, generally performed via redelivery of the lost, undelivered, or otherwise corrected Form 1095-C to the employee in the same manner as the original was delivered.

As detailed in the following Table Two, there are three underlying types of corrections related to redelivery of lost, undelivered, or corrected employee statements requiring redelivery to enrolled individuals:

*(see next page)*

# ACA Information Reporting: Redelivery of Employee Statements

**TABLE TWO:  
Redelivery of Lost, Undelivered or Corrected Employee  
Statements**

Type of Correction:	Related Procedures Rules:
Redelivery when original Form 1095-C was provided electronically.	Provide the corrected statement electronically.
Redelivery when original Form 1095-C was provided electronically and returned as “undeliverable”.	When a correct e-mail address has not been provided, then the statement must be furnished by mail or in person within 30 days after the original electronic notice is returned.
Redelivery when original Form 1095-C was provided through a website posting.	Notify the recipient (via mail, e-mail or in person) that it has posted the corrected statement on the website within 30 days of such posting.
Redelivery of Corrected Form 1095-C that <u>WAS</u> Previously Reported to the IRS <i>and</i> to the Employee	Prepare and submit to the IRS a fully-completed Form 1095-C and enter an “X” in the “CORRECTED” checkbox at the top of the Form, filed under cover of a newly-prepared Form 1094-C (non-authoritative and without the “CORRECTED” box marked). Then, forward the newly-prepared and “CORRECTED” Form 1095-C to the employee.
Redelivery of Corrected Form 1095-C that <u>WAS</u> Previously Reported to the Employee, but <u>WAS NOT</u> Previously Reported to the IRS	Prepare an amended or otherwise corrected Form 1095-C, and write “CORRECTED” at the top. Then, forward the corrected Form 1095-C to the employee. The copy submitted to the IRS should <i>not</i> have this writing or the “Corrected” box checked.

# ACA Information Reporting: Additional Employer Resources

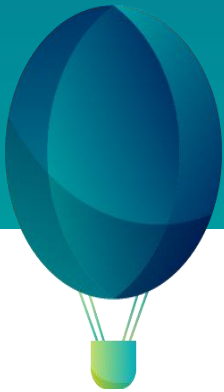
## *Part Five: Additional Information Reporting Resources for Employers*

A variety of public and private informational resources are readily available to assist employers with performance of their reporting-related obligations arising under Sections 6055 and 6056. To that end, following in Table Three, please find links navigating to resources published and maintained by the IRS for the purpose of guiding employers through their ACA-related information reporting obligations, specifically respecting the topics of corrected and replaced ACA information reporting statements and submissions:

**TABLE THREE:  
Employer Information Reporting Resources**

<b>Resource Topic:</b>	<b>Internet Address:</b>
IRS Publication 5165 (Guide for Electronically Filing Affordable Care Act (ACA) Information Returns):	<a href="https://www.irs.gov/pub/irs-pdf/p5165.pdf">https://www.irs.gov/pub/irs-pdf/p5165.pdf</a>
IRS Publication 1586 (Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs):	<a href="https://www.irs.gov/pub/irs-pdf/p1586.pdf">https://www.irs.gov/pub/irs-pdf/p1586.pdf</a>
2023 Instructions for Forms 1094-C and 1095-C (See Section on “Corrected Returns”)	<a href="https://www.irs.gov/pub/irs-pdf/i109495c.pdf">https://www.irs.gov/pub/irs-pdf/i109495c.pdf</a>

# Performance Notes and Summary of Administration



# NOTES

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# QUESTIONS, COMMENTS & ADDITIONAL INFORMATION



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