GBS Benefits Compliance

Important Update: Most Employers Filing Affordable Care Act 1094/1095 Forms Must Now File Electronically

The Affordable Care Act (ACA) requires applicable large employers (and small employers that sponsor self/level funded plans) to annually report specific information about group health insurance coverage. An applicable large employer, or ALE, must report using 1094/1095-C forms. The 1095-C form is furnished by the ALE to employees. The 1094-C form along with copies of all the 1095-C forms (already furnished to employees) is filed by the ALE with the IRS.

Originally, ALEs that were filing 250 or more 1094/1095-C forms were required to file with the IRS electronically through the *ACA Information Return* (AIR) system. ALEs that were filing fewer than 250 1094/1095-C forms had the option to file: 1) by mailing paper versions to the IRS, or 2) by submitting electronic versions through the AIR system.

However, starting with the **2023** 1094/1095 forms (due by March/April 2024), this threshold has changed. Now all ALEs must file the forms electronically through the AIR system. Only small employers that are required to file forms (because they sponsored a self/level funded plan) have the option to file paper copies by mail, and only if the small employer is filing less than 10 IRS forms. When counting the number of IRS forms an employer must file, an employer must now include in that count not only the number of 1094/1095 forms it will be filing, but ALSO the number of W-2 forms and 1099 forms it will be (separately) filing. Consequently, most small employers must file electronically as well.

Under the ACA employer shared responsibility provisions, an applicable large employer (ALE) is defined as an employer that employed in the full prior calendar year an average of 50 or more employees (full-time employees plus full-time employee equivalents) per month, and a small employer is defined with the same factors but employs instead an average of under 50 employees. If an employer is not sure if it is large or small under these rules for a given calendar year, it should confirm its size using the specific size calculation method outlined in the rules. GBS clients can ensure they calculate employer size accurately by using Step 1 of our GBS 4 Step ACA toolkit.

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If an employer's size changes from calendar year to calendar year and hovers close to the 50 threshold, it is important to understand for what years reporting is required. For example:

Size Calculation Data	Year Size Results Apply	Data Year	Submission Due Date
Use January 1, **2022** to December 31, **2022**	If calculation result is 50+ then employer is large for **2023**	Report using data from **2023** calendar year	File and furnish 1094/1095-C forms by March/April **2024**
Use January 1, **2023** to December 31, **2023**	If calculation result is 50+ then employer is large for **2024**	Report using data from **2024** calendar year	File and furnish 1094/1095-C forms by March/April **2025**

If an employer filed the 1094/1095 forms in the past by mailing paper copies, it should take steps now to ensure electronic copies will be submitted and in a timely manner. The AIR system can be challenging for many employers if new to the process. Consider exploring and engaging assistance through a third-party filing/furnishing provider. Please contact your GBS broker team for more information about our preferred vendor partner. For general education on 1094/1095 reporting rules, consider attending our upcoming live GBS seminar on the topic, presented by our Director of Health Benefit Compliance.

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This document is not intended to be exhaustive, nor should any information be construed as tax or legal advice. Readers should contact a tax professional or attorney if legal advice is needed. Although we have made every effort to provide complete, up-to-date, and accurate information in this document, such information is meant to be used for reference only. If there is any inconsistency between the information contained in this document and any applicable law, then such law will control.

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