



Quick Reference Guide

For Calendar Year 2022 Reporting

Presented By:
Brown & Brown Regulatory and Legislative Strategy Group

Updated January 2023



DISCLAIMER

Brown & Brown, Inc. and all its affiliates, do not provide legal, regulatory or tax guidance, or advice. If legal advice counsel or representation is needed, the services of a legal professional should be sought. The information in this document is intended to provide a general overview of the topics and services contained herein. Brown & Brown, Inc. and all its affiliates, make no representation or warranty as to the accuracy or completeness of the document and undertakes no obligation to update or revise the document based upon new information or future changes.

What's Changing for Calendar Year 2022 Reporting?

IRS Form 1095-C Final Instructions

- Applicable Large Employers will permanently be provided an automatic 30-day extension of time (from January 31 of each year) to furnish Forms 1095-C to employees, and, if applicable, Forms 1095-B to covered individuals
 - » Applies to plan years starting after December 31, 2021, and subsequent calendar years
- IRS “good faith” relief will no longer apply to 2021 reporting and beyond

Information Reporting Penalties for Calendar Year 2022

- **Failure to file a correct information return or provide correct payee statement:** \$290 for each return or statement for which the failure occurs, with the total penalty for a calendar year not to exceed \$3,532,500

Note: Penalty amounts may be increased under special circumstances



DUE DATE

Employers will have until **March 2, 2023**, to provide the 2022 1095-C/1095-Bs to individuals.

Identifying ALEs

Applicable Large Employer (ALE)

- Employers that average 50 or more full-time and full-time equivalent employees (FTEs) in the immediately preceding year
 - » Calculate the aggregate number of hours of service (not more than 120 hours for any employee) for all non-full-time employees for each month of the calendar year
 - Divide the total hours of service in step (1) by 120 = FTEs for the applicable calendar month
 - Take the # of all regular full-time employees (employees with at least 130 or more hours a month) in each month and add them to the # of FTE employees for each of the corresponding months for all 12 months in the preceding calendar year
 - Add the 12 monthly sums of FT + FTE employees (comprised of FTE + FT employees in each month for all 12 months) and divide the sum by 12
- If the number of FTE is less than 50, the employer is not an Applicable Large Employer (ALE)



CALCULATING ALE

1. Based on the prior calendar year average of FT/FTE employees
2. All employees of a “controlled group” or “affiliated service group” (ASG) of entities are considered
3. If the total within the controlled group or ASG of entities is 50 FT/FTE employees or greater, all members must comply with the mandate on their own

Section 6055 & 6056 Reporting



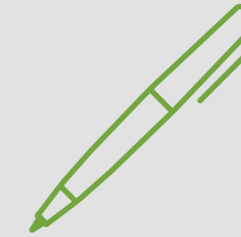
ALEs Sponsoring Self-Insured Plans

- Form 1095-C
 - » Part I, Part II and Part III
- Form 1094-C



ALEs Sponsoring Insured Plans

- Form 1095-C
 - » Part I and Part II only
- Form 1094-C



Non-ALEs Sponsoring Self-Insured Plans

- Form 1095-B
- Form 1094-B

Non-ALEs sponsoring insured plans are not required to report under Section 6055 or Section 6056.

Forms

Forms 1094-A & 1095-A

- Marketplace (Exchange)

Forms 1094-B & 1095-B

- Insurance issuers, non-ALEs (less than 50 FTE) that are self-insured and ALEs that use these forms to report coverage provided under a self-insured plan to someone who was not an employee during the year

Forms 1094-C and 1095-C

- Applicable Large Employers (ALE)



Due Dates

Furnishing Forms 1095-C

- **March 2, 2023** (date extended under IRS Final Rulemaking)
 - » Paper delivery
 - » Electronic only if the employee has consented to electronic delivery of the 1095-C (in writing)
 - » Alternative method for furnishing Forms 1095-C (publication on entity's website) to non-employees/non-FT employees may be possible, so long as certain conditions are met

Filing Forms 1095-C and Form 1094-C

- **February 28, 2023**, if filing on paper
- **March 31, 2023**, if filing electronically
 - » Electronic filing required for ALE filing 250 or more Forms 1095-C



FILING EXTENSIONS

Employers may file for an **automatic 30-day** extension via Form 8809.

Form 8809 Application for Extension

- Provides employers up to a 30-day automatic extension to file information returns
- **Due date:** Form 8809 must be filed on or before the filing due date of the applicable form
 - » Due date will depend on which returns are being filed
 - » If extension request applies to multiple returns, Form 8809 must be filed by the earliest due date for the multiple returns
- Can be filed electronically through FIRE System or via paper copy
- IRS Form 8809 and instructions can be found [here](#)



NOTE

Does ***NOT*** extend due date for providing Forms 1095-C to employees.

Form 1095-C Line 14 Codes

1A	Qualifying Offer: MEC/MV offered to employee, self-only coverage \leq than 9.61% single 2022 FPL and at least MEC offered to spouse and dependent(s).
1B	Minimum essential coverage (MEC) providing minimum value (MV) offered to employee only.
1C	MEC/MV offered to employee and at least MEC offered to dependent(s) (not spouse).
1D	MEC/MV offered to employee and at least MEC offered to spouse (not dependent(s)).
1E	MEC/MV offered to employee and at least MEC offered to dependent(s) and spouse.
1F	MEC but NOT MV offered to employee, or employee and spouse or dependent(s), or employee, spouse and dependents.
1G	Offer of coverage to employee who was not full-time for any month of the calendar year and who enrolled in self-insured coverage for one or more months of the calendar year.
1H	No offer of coverage (or employee offered coverage that is not MEC).
1I	Reserved.
1J	MEC/MV offered to employee and at least MEC conditionally offered to spouse (but no MEC offered to dependent(s)).
1K	MEC/MV offered to employee and at least MEC offered to dependent(s) and at least MEC conditionally offered to spouse.

Form 1095-C Line 14 Codes ICHRA

1L	ICHRA offered to employee only with affordability determined by using employee's primary residence location zip code.
1M	ICHRA offered to employee and dependents (not spouse) with affordability determined by using employee's primary residence location zip code.
1N	ICHRA offered to employee, spouse and dependents with affordability determined by using employee's primary residence location zip code.
1O	ICHRA offered to employee only using the employee's primary employment site zip code affordability safe harbor.
1P	ICHRA offered to employee and dependents (not spouse) using the employee's primary employment site zip code affordability safe harbor.
1Q	ICHRA offered to employee, spouse and dependents using the employee's primary employment site zip code affordability safe harbor.
1R	ICHRA that is not affordable offered to employee, employee and spouse or employee, spouse and dependents.
1S	ICHRA offered to an individual who was not a full-time employee.
1T	ICHRA offered to employee and spouse (no dependents) with affordability determined using employee's primary residence ZIP code.
1U	ICHRA offered to employee and spouse (no dependents) using employee's primary employment site ZIP code affordability safe harbor.
1V-1Z	Reserved for future use.

Form 1095-C Line 16 Codes

2A	Employee not employed during the month.
2B	Employee not a full-time employee.
2C	Employee enrolled in coverage offered.
2D	Employee in a section 4980H(b) Limited Non-Assessment Period.
2E	Multiemployer interim rule relief.
2F	Section 4980H affordability Form W-2 safe harbor.
2G	Section 4980H affordability federal poverty line safe harbor.
2H	Section 4980H affordability rate-of-pay safe harbor.
2I	Reserved.

Affordability Safe Harbors

Affordability Safe Harbors

- The affordability percentage for 2022 is 9.61% (IRS Rev. Proc. 2021-35)
- Safe harbors
 1. The employee's W-2 wages (Box 1) x affordability percentage (annual determination)
 2. The employee's rate of pay: hourly wage rate x 130 hours per month x affordability percentage **or** monthly salary x affordability percentage (monthly determination)
 3. Affordability percentage x the single Federal Poverty Line (FPL) (using the FPL number effective 6-months prior to the beginning of the plan year) divided by 12 (monthly determination)
 - **For plan years that begin on or after January 1, 2022 and before January 21, 2022, employers must utilize the 2021 FPL amount (48 Contiguous States & D.C. - \$12,880, Alaska - \$16,090, Hawaii - \$14,820)**



**2022 SINGLE FEDERAL
POVERTY LINE PUBLISHED**
January 21, 2022
(Effective for plan years starting
on or after January 21, 2022)

- **48 Contiguous States & D.C. - \$13,590**
- **Alaska - \$16,990**
- **Hawaii - \$15,630**

Common Coding for COBRA Situations

COBRA for terminated employee:

- Coverage goes to end of the month in which employee terminates: 1E, 2C.
- Coverage does not go to the end of the month in which employee terminates: 1H, 2B.
- All months following the month in which the employee terminates: 1H, 2A.
- COBRA participants who have not been employed at any time during the calendar year: 1G (if preparing 1095-C to report coverage under self-insured plan).



COBRA CODES

Use 2B if COBRA is not elected and employee became a part-time employee (reduction-in hours only – not terminated employees).

COBRA for reduction-in hours and COBRA is elected:

- For a person who was enrolled in family coverage and was therefore offered COBRA for self, spouse and dependent(s): 1E, 2C and fill in line 15 with COBRA rate for self-only coverage.
- For a person who was enrolled in self-only coverage and was therefore offered self-only COBRA coverage: 1B, 2C and fill in line 15 with COBRA rate for self-only coverage.
- For a person who was enrolled in coverage for self and a dependent and was therefore offered COBRA coverage for self and their dependent: 1C, 2C and fill in line 15 with COBRA rate for self-only coverage.
- For a person who was enrolled in coverage for self and spouse and was therefore offered COBRA for self and their spouse: 1D, 2C and fill in line 15 with COBRA rate for self-only coverage.

Self-Insured Employers

Former Employees and Other Non-Employees

Individuals who were former employees/non-employees for all 12 calendar months

- » Self-insured sponsors may use either Forms 1094/1095-C or Forms 1094/1095-B for individuals who were former employees/non-employees for all 12 months of the calendar year
 - No requirement for the plan to offer coverage to non-employee directors, but if they are covered under the plan, reporting is required
- » If using 1094/1095-C, use Code 1G on line 14 for any individual who was not an employee (i.e., former employee/non-employee) for any calendar month and was enrolled in self-funded coverage for at least one calendar month
 - The above rules apply to any individuals that were COBRA beneficiaries for all 12 months of the calendar year and enrolled in self-insured coverage for any month
 - The above rules apply to any individuals who were retirees for all 12 months of the calendar year and enrolled in self-insured coverage for any month



COBRA CODES

Code 1G goes in the all 12 months column on line 14 if the former employee/non-employee was enrolled in self-insured coverage for all 12 months.

Special Rules for HRAs

Self-Insured Major Medical Plan and an HRA

- Report only the major medical plan information for employees enrolled in both plans

Insured Major Medical Plan and an HRA

- Not required to report coverage provided by HRA *if* the individual is eligible for the HRA because the individual enrolled in the insured major medical plan

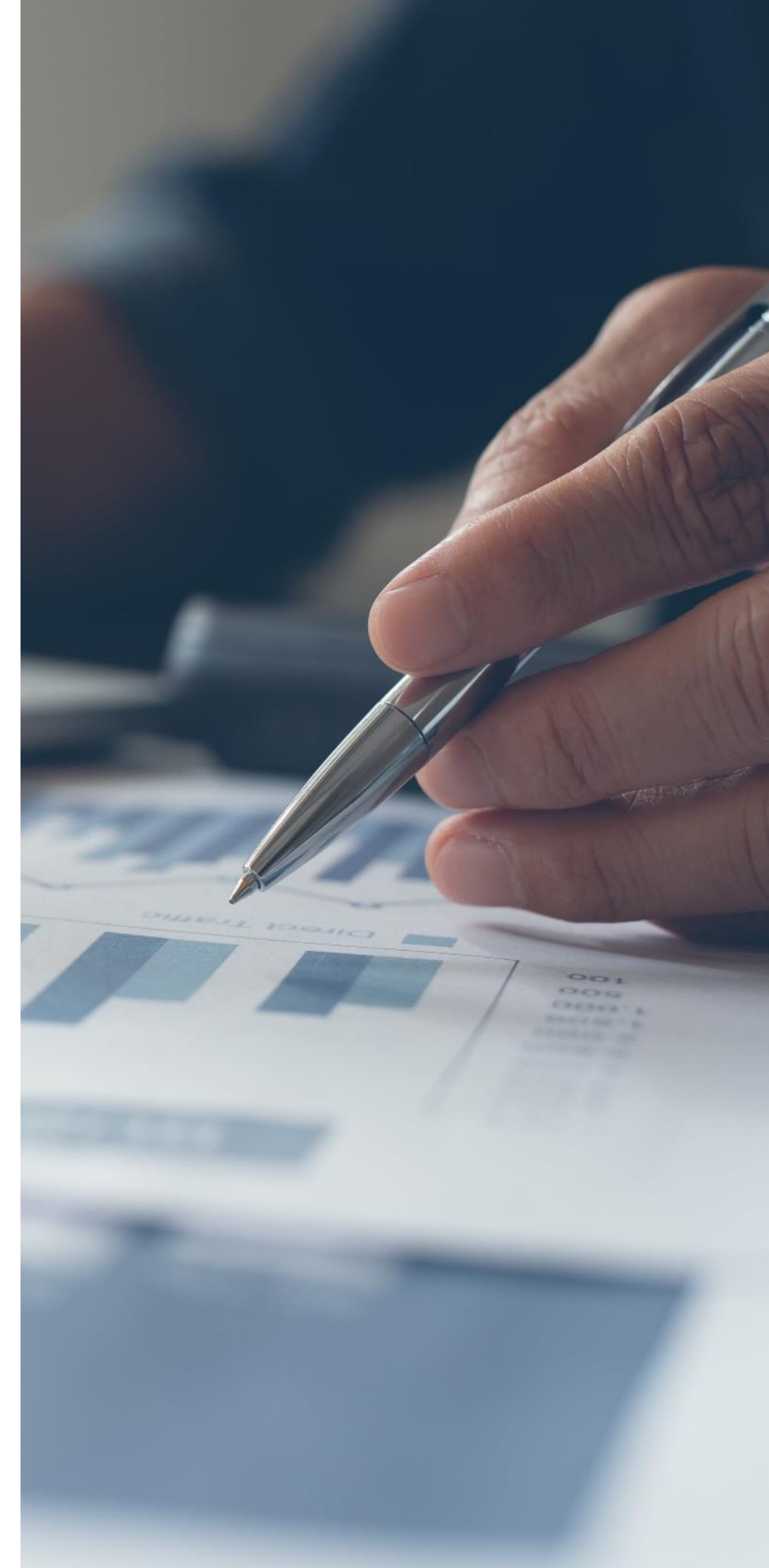
HRA must be reported in Part III for any individual who is NOT enrolled in a major medical plan of the ALE Member

- Applicable to the employers with less than 50 FT/FTEs too



State Individual Mandate Reporting

- IRS due date extensions and reporting relief does not apply to state individual mandate furnishing/reporting requirements unless state adopts extensions
- Employers with employees working in the following states/districts may face earlier reporting deadlines and will want to ensure they are meeting all state/district mandated reporting requirements
 - » California
 - » Massachusetts
 - » New Jersey
 - » Washington D.C.
 - » Rhode Island
 - » Vermont
- Employers should consult legal counsel and tax advisors for advice regarding compliance with state/district reporting requirements.



Resources

2022 Instructions for Forms

- <https://www.irs.gov/pub/irs-pdf/i109495c.pdf>

2022 Form 1095-C

- <https://www.irs.gov/pub/irs-pdf/f1095c.pdf>

2022 Form 1094-C

- <https://www.irs.gov/pub/irs-pdf/f1094c.pdf>





Find your solution at [BBrown.com](https://www.BBrown.com)

DISCLAIMER: *Brown & Brown, Inc. and all its affiliates, do not provide legal, regulatory or tax guidance, or advice. If legal advice counsel or representation is needed, the services of a legal professional should be sought. The information in this document is intended to provide a general overview of the topics and services contained herein. Brown & Brown, Inc. and all its affiliates, make no representation or warranty as to the accuracy or completeness of the document and undertakes no obligation to update or revise the document based upon new information or future changes.*