

Employer Shared Responsibility for the Federal Government

FastFacts

What is Employer Shared Responsibility?

- Applicable large employers (ALE) are subject to the [Employer Shared Responsibility \(ESR\) provisions](#) under sections 6056 and 4980H of the Internal Revenue Code (IRC).
- ALEs are required to file information to the Internal Revenue Service (IRS) about the health insurance offered to eligible full-time employees, and they must also provide information to their full-time employees about their health insurance offer and coverage.

What is an ALE and ALE member?

- For purposes of the FEHB program, OPM defined an applicable large employer (ALE) as the group of civilian, non-Postal, executive agencies that are permitted by statute to participate in the FEHB Program. The ALE members are Cabinet level Departments, independent agencies, boards and commissions that make up the ALE.
- For more information, see OPM's Benefits Administration Letter (BAL) [17-302](#) and the [IRS Questions and Answers](#) on section 6056 reporting.

To assist the Federal government in the administration of these IRS requirements, OPM has provided FEHB Program guidance on its website at: www.opm.gov/ESR.

What are the key deadlines?

- ALE members are required to report information from plan year 2017 to the IRS by no later than February 28, 2018 or April 2, 2018, if filed electronically.
 - If filing more than 250 returns during the calendar year, the ALE member must file electronically.
- For tax year 2017, IRS extended the deadline in [IRS Notice 2018-06](#), and ALE members must furnish information to full-time employees by no later than March 2, 2018.
- ALE members must obtain consent from employees to furnish this information electronically.

Why is ESR reporting required?

- The IRS will use the information provided on the applicable forms to administer Internal Revenue Code (IRC) section 4980H, which requires employers to offer health insurance to their full-time employees.
- *If employers do not meet the requirements in IRC section 4980H, they may be subject to an assessable payment.* See [IRS regulations](#).

How Does the Employer Shared Responsibility Provision affect the Federal Government?

- All employers, including the Federal government, are subject to IRC Sections 6056 and 4980H. [IRS rules](#) and [guidance](#) should be consulted on how these provisions affect employers.

Do not rely solely on this fact sheet. For more information, always refer to the IRS website at <https://www.irs.gov/affordable-care-act/employers/questions-and-answers-on-reporting-of-offers-of-health-insurance-coverage-by-employers-section-6056>

Who does the ESR reporting?

- Under [IRS rules](#), employers with 50 or more full-time employees, including full-time equivalent employees, during the prior year must report.
- OPM issued [BAL 14-212](#) that provides guidance on designating reporting responsibilities under IRC section 6056 for purposes of the FEHB Program.

What forms must be completed?

- The IRS has released [instructions](#) and the IRS Forms [1095-C](#) and [1094-C](#) for the 2017 tax year.
- The employer can provide the required statement to full-time employees by furnishing them with a copy of the Form 1095-C filed with the IRS.

How will the Federal government file information returns?

- Employers or their designees will file information returns using the [Affordable Care Act Information Returns \(AIR\) System](#), which is administered by the IRS. The AIR system is the **only** mechanism for filing information returns electronically to the IRS.
 - The AIR system allows for information returns and transmittals to be filed electronically. These returns are only accepted electronically in XML format.

What should the Federal government do now?

- Agencies that have designated a (Shared Service Center) SSC to report on their behalf should maintain regular communications with their SSC regarding the IRC reporting requirements.
- Employers that process payroll in-house that plan to file the forms on their own should familiarize themselves with IRS [Publication 5165](#), which provides information for software developers and transmitters.
- Software developers and those performing the technical part of the ESR reporting transmission should make sure their systems are ready to transmit the required information returns to the IRS.
 - The [Affordable Care Act Assurance Testing System \(AATS\)](#) opened for testing in October 2017.
 - Those planning to access the testing site must register at the e-services Registration [website](#).
- Agencies should communicate with employees that section 6056 employee statements on health insurance coverage will be issued no later than March 2, 2018.
- IRS regulations permit, but do not require, that ALE members furnish section 6056 employee statements electronically. Employers must obtain affirmative consent from the employee to furnish a statement electronically. Employers using electronic distribution must meet notice, consent, and hardware and software requirements modeled on existing rules. Employers should consult [IRS regulations](#) for more details.