

Employer Shared Responsibility for the Federal Government

FastFacts

What is Employer Shared Responsibility?

- Applicable large employers (ALEs) 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 are the updates from IRS Notice 19-63?

- [IRS Notice 19-63](#) extends the due date from January 31, 2020, to March 2, 2020, for applicable large employers (ALEs), including Federal agencies, to furnish statements to employees using 2019 Form 1095-C. The Notice does not extend the due date for filing 2019 Forms 1094-C transmittal and 1095-C information report with IRS.
- The Notice extends relief from penalties under sections 6721 and 6722 associated with incorrect or incomplete information when the ALE can show good-faith efforts to comply with the reporting requirements under section 6056 for 2019 (both for employee statements and IRS filing).
- See [IRS Notice 19-63](#) for more information.

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.

What are the key deadlines?

- ALE members are required to report information from plan year 2019 to the IRS by no later than February 28, 2020 or March 31, 2020, if filed electronically. [IRS Notice 19-63](#) did not extend the due date for filing with the IRS.
 - If filing more than 250 returns during the calendar year, the ALE member must file electronically.
- According to [IRS Notice 19-63](#), for tax year 2019, ALE members must furnish information to full-time employees by no later than March 2, 2020.
- 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 2019 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 November 2019.
 - 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, 2020.
- 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.