**ACA REPORTING OVERVIEW** 1094-B/1095-B FORMS

**Overview**: The Affordable Care Act (ACA) requires insurance companies to annually report all months for which employees and family members were enrolled in a fully insured group medical/Rx plan using 1094-B and 1095-B forms.

If there are months of the calendar year the group medical/Rx plan was *not* fully insured, then the employer must report the months employees and family members were enrolled. An “applicable large employer” (ALE) under the ACA, including an ALE member in a controlled group of companies, must use 1094-C/1095-C forms. Non-ALEs use the much simpler 1094-B/1095-B forms.

**Applies To:** Small employers (non-ALEs i.e., employers with less than 50 full-time employees and full-time equivalents) with self-funded or level-funded health plans or ICHRAs

**Go Deeper:**

The 1094-B/1095-B forms operate much like W-3/W-2 forms:

* In the W-3/W-2 context:
	+ The W-2 is an individual statement given to the employee.
	+ Then all W-2 forms are e-filed to the IRS with a W-3 transmittal cover sheet.
* In the 1094-B/1095-B context:
	+ The 1095-B is an individual statement given to the employee.
	+ Then all 1095-B forms are e-filed to the IRS with a 1094-B transmittal cover sheet.

**IRS Instructions for Completing the Forms:** <https://www.irs.gov/instructions/i109495b>

**The Form 1095-B Individual Statement:** <https://www.irs.gov/pub/irs-pdf/f1095b.pdf>

A non-ALE only completes the 1095-B form for employees (and family members) who were enrolled in the employer’s level-funded or ICHRA plan at any point in the calendar year, including months enrolled under COBRA.

* **Part I** requires basic demographic information identifying the employee.
	+ In line 8, the employer must indicate what type of enrollment for the covered employee. Populate with **B** for level-funded coverage or **G** for an ICHRA.
	+ If the employer switched between level-funded and ICHRA during the calendar year, the IRS does not give clear direction which code to use.
* **Part II** is only completed by insurance companies, so non-ALEs will skip this section.
* **Part III** requires basic demographic information identifying the employer.
* **Part IV** must list the enrolled employee first, marking any months the employee was enrolled on the level-funded or ICHRA plan for even one day.
	+ Note, while there is a place in the first row to enter a date of birth (DOB) if SSN is not available, enrolled *employees* are actually required to show an SSN, so the DOB field is not an option.
	+ If any family members were enrolled, they are listed below the employee, marking the months they were enrolled on the level-funded or ICHRA plan for even one day.
	+ If a family member does not have or does not provide an SSN or other TIN, a DOB may be entered instead, but the employer must keep records in their files that they requested a dependent’s SSN/TIN at least three times:
		- Upon initial enrollment
		- By December 31 that year (or by January 31 if enrollment was in December)
		- A final request by the next December 31
	+ If individuals express hesitation about providing a dependent’s SSN/TIN, the IRS provides FAQs employers can share: <https://www.irs.gov/affordable-care-act/questions-and-answers-about-reporting-social-security-numbers-to-your-health-insurance-company>

**The Form 1094-B Transmittal Cover Sheet:** <https://www.irs.gov/pub/irs-pdf/f1094b.pdf>

A non-ALE submitting one or more 1095-B forms to the IRS must submit them with a 1094-B transmittal cover sheet. It is an extremely straightforward form asking for basic demographic information to identify the employer, the number of 1095-B forms they are submitting with this 1094-B, and a line to capture signature/title/date to make the submission official.

**Electronic Filing Required:**

Technically, all forms are submitted to the IRS electronically via an XML file. The ACA Information Reporting (AIR) system the IRS created is complex and time consuming, so it is ideal to outsource the creation of the forms and the electronic filing to a third-party technology provider, such as the employer’s payroll or HRIS partner.

**Auditing and Recordkeeping:**

These are the employer’s tax forms, so it is imperative the employer audit each 1095-B, along with the 1094-B and the XML file, for accuracy. Then the employer should keep copies of each 1095-B, the 1094-B, and the XML file, along with proof of the e-filing submission, in their own records for four years.

As discussed above, three attempts to request a dependent’s SSN/TIN also must be kept on file for as long as the employer will report their DOB on their 1095-B.

**Deadlines:**

Statements are due to individuals within 30 days following January 31 (usually March 1). However, regulations provide a method for employers to post a prominent statement on their website for employees to request a copy of their 1095-B, in which case the employer would only have to distribute them to employees who ask.

See the IRS instructions for the B forms for the *“Alternative Manner of Furnishing Statements”* for official rules on what to post on the employer’s website.

The IRS e-filing is required by the end of March.

Several states require these forms and may impose their own deadlines:

* As of 2024 reporting due in early 2025, those states are CA, NJ, RI and DC.
* MA has a similar requirement, but rather than submitting the federal 1094-B/1095-B forms to the state, the employer submits MA 1099-HC forms.
* VT has an individual mandate but does not require employers submit these forms to the state.

**Consequences of Non-Compliance:**

Intentionally neglecting to file required ACA forms due in 2025 results in a penalty of $660 per form not provided to enrolled individuals, plus another $660 per form not filed with the IRS. Both of these penalties can be reduced if the employer takes action to provide complete and accurate forms to individuals and the IRS.

* Reduced to $330 when complete and accurate forms are provided on/after August 1st.
* Reduced to $130 when complete and accurate forms are provided 30 days late but before August 1st.
* Reduced to $60 when complete and accurate forms are provided within 30 days of when they should have been provided.

**Practical Implications for Employers:**

Toward the end of the calendar year, non-ALEs with self-funded or level-funded health plans or ICHRA plans should identify their preferred technology partner who will help facilitate this ACA reporting requirement in January. While the forms are straightforward, the electronic AIR system is not, and the XML file can take time to understand before the employer can audit the contents of it for accuracy. In addition, some states require submission of state filings at different deadlines than deadlines imposed by the IRS.