



ACA Form 1095 Coverage Reports • ACA Cadillac Tax Update

This *Alert* addresses the:

- ACA Form 1095 Coverage Reports that Health Plans will provide to clients in January 2016
- ACA “Cadillac tax” currently scheduled to take effect in 2018

The Coverage Report provides data for the Covered Individuals section of Form 1095. Data for the other sections will come from employer personnel and payroll records.

ACA Form 1095 Coverage Reports

To help clients meet their ACA information reporting obligations (see June 1, 2015 [Compliance Bulletin](#)), Health Plans will distribute ACA Form 1095 Coverage Reports (1095 Coverage Reports) by January 8, 2016.

The 1095 Coverage Reports will list all individuals covered under plans administered by Health Plans at any time during 2015, and will include each person’s:

- Name
- Date of birth
- Social Security number (if available)
- Number of days of coverage for each month in 2015

A sample report is attached to this *Alert*, and includes a key to each data element. In addition to the basic data elements listed above, clients will be able to sort data by department and identify whether each individual’s coverage is linked to active employment or some other status such as COBRA or retirement.

Who gets Form 1095?

Applicable large employers (ALEs) offering self-funded plans must issue Forms 1095 to:

- Employees who were full-time at any time during 2015, regardless of whether they were enrolled in coverage
- All other individuals (e.g., part-time employees, retirees, COBRA enrollees) who were enrolled in coverage at any time during 2015

Small employers offering self-funded plans must issue Forms 1095 to those enrolled in coverage at any time during 2015.

ALEs use Form 1095-C (1094-C for transmittal to the IRS) and small employers use Form 1095-B (1094-B for transmittal to the IRS).

ALEs and small employers should use one Form 1095 to list all individuals covered under each subscriber.

The IRS web page below provides comprehensive resources for ALEs, as well as for small employers offering self-funded plans.

[Information Reporting by Applicable Large Employers - IRS.gov](#)

For the purposes of the information reporting requirements, an **applicable large employer (ALE)** is an employer which averaged 50 or more full-time employees and full-time equivalents during the previous calendar year. All other employers are small employers.

ACA Form 1095 Coverage Reports • Cadillac Tax Update

ACA Cadillac Tax Update

The excise tax under §4980I of the Affordable Care Act (ACA), commonly known as the Cadillac tax, is scheduled to become effective in 2018. As currently written, it will impose a non-deductible 40% tax on excess benefits offered under employer-sponsored group health plans.

To date, neither proposed nor final regulations have been issued. The IRS has issued several requests for comments about developing the specific rules that will govern the calculation and collection of the tax, and has given some insight into what employers might expect and what is still to be determined.

This *Alert* provides a high-level overview of Health Plans' current understanding of the Cadillac tax. As regulations and other guidance are issued, Health Plans will update clients on the clarifications and changes.

Cadillac Tax At-a-Glance

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|---|---|
| What | Permanent, non-deductible annual 40% excise tax on "excess benefits" under employer-sponsored group health plans; calculated monthly |
| When | Taxable years beginning January 1, 2018 |
| Which employers | All – no small group exception |
| Which plans | <p>Most health coverage, including many types of plans generally not otherwise subject to the ACA:</p> <ul style="list-style-type: none"> • Major medical • Retiree coverage, including retiree-only plans • Wellness plans that are group health plans – <i>awaiting regulatory clarification</i> • FSAs, including employee contributions <i>awaiting regulatory clarification</i> • HRAs – <i>awaiting regulatory clarification</i> • HSAs funded with pre-tax employee or any employer contributions – <i>awaiting regulatory clarification</i> • Executive plans – <i>awaiting regulatory clarification</i> • Executive physicals – <i>awaiting regulatory confirmation/clarification</i> • On-site medical clinics that offer more than "de minimus" coverage – <i>awaiting regulatory clarification on definition of de minimus</i> • Specific disease or indemnity coverage if paid by employer on excludable basis or with employee pre-tax contributions • Multiemployer plans |
| Who calculates and pays <i>Awaiting forms and instructions for payment</i> | <p>Fully insured: Employer calculates; insurer pays</p> <p>Self-funded: Employer calculates – <i>awaiting regulatory clarification about whether employer pays directly or TPA pays on employer's behalf</i></p> <p>HSAs: Employer calculates, employer pays – <i>awaiting regulatory clarification</i></p> |



ACA Form 1095 Coverage Reports • Cadillac Tax Update

Cadillac Tax At-a-Glance, *cont'd*

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| Defining excess benefits | <p>Excess benefits mean the cost of a plan in excess of certain statutory thresholds, subject to indexing for inflation.</p> <p>Current 2018 thresholds:</p> <ul style="list-style-type: none"> • Self-only: \$10,200 • Covering 2+ individuals: \$27,500 <p>Increased thresholds for pre-65 retiree plans and plans which have a majority of covered members engaged in certain high-risk professions*</p> <ul style="list-style-type: none"> • Self-only: +\$1,650 • Covering 2+ individuals : +\$3,450 |
| Determining cost | For self-funded plans cost will likely be related to the calculation for COBRA coverage – <i>awaiting regulatory clarification on calculating cost and any requirements related to certifications of calculations</i> |
| Cadillac tax calculation example | <p>Assume self-only COBRA coverage cost in 2018 = \$12,000</p> <p>\$12,000-\$10,200 (threshold) = \$1,800 excess benefits</p> <p>\$1,800 x .40 = \$720 excise tax annually; \$60 monthly assuming level cost all 12 months</p> |

*For example, law enforcement officers, fire fighters, out-of-hospital emergency medical care workers, those installing or repairing electrical or telecommunication lines; construction, mining, agriculture, forestry and fishing industry workers. *Awaiting further regulatory clarification.*

While there continues to be much media coverage about the possibility of repealing or modifying the Cadillac tax, unless and until the federal government takes new action, such commentary is only speculative.

Again, as guidance and regulations are issued, Health Plans will update clients about the Cadillac tax.

This Alert is intended to provide a summary of Health Plans' understanding of recent regulatory developments which may affect our clients' plans. It should not be construed as specific legal advice or legal opinion. The contents are for general informational purposes only and are not a substitute for the advice of legal counsel.