

# IRS Issues Draft Form 1095-C for ACA Reporting in 2021

Revisions could require employers to alter existing reporting systems

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July 28, 2020

**O**n July 13, the IRS released for comments a draft of 2020 Form 1095-C: Employer-Provided Health Insurance Offer and Coverage (<https://www.irs.gov/pub/irs-dft/f1095c--dft.pdf>). Applicable large employers (ALEs) will use the final version of the form in early 2021 to show that their health coverage complied with the Affordable Care Act (ACA) during 2020.

The IRS also released a draft of 2020 Form 1094-C (<https://www.irs.gov/pub/irs-dft/f1094c--dft.pdf>), the transmittal form that accompanies Form 1095-C when filed with the IRS.

While the draft Form 1094-C is unchanged from last year, the draft Form 1095-C has additional lines for codes based on the introduction in 2020 of a new type of health reimbursement account (HRA), the individual coverage HRA (ICHRA). The revisions add a second page to the form and may require employers to alter existing reporting systems.

## Requirements for ALEs

ALEs—organizations that had, on average, 50 or more full-time equivalent employees during the preceding calendar year—use Form 1095-C to report whether they offered eligible employees that provides minimum essential coverage ([www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/ACA-coverage-terms.aspx#minimum-essential-coverage](http://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/ACA-coverage-terms.aspx#minimum-essential-coverage)) and meets the minimum value threshold ([www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/ACA-coverage-terms.aspx#minimum-value](http://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/ACA-coverage-terms.aspx#minimum-value)). These requirements apply whether an ALE offered coverage through a group health plan or funded ICHRAs that employees used to purchase coverage for themselves and their families on an ACA marketplace exchange.

In either case, ALEs must meet the following deadlines.

ACA Requirement	Deadline
1095 forms delivered to employees	January 31*
Paper filing with IRS	February 28
Electronic filing with IRS	March 31

\*In the past, the IRS has extended the Jan. 31 deadline by 30 days.

Source: IRS.

The IRS has not yet announced whether it will again extend the Jan. 31 deadline for furnishing 1095-C forms to employees or offer additional reporting relief because of the COVID-19 pandemic. However, if the delivery deadline is extended, employers may still decide to distribute forms to employees in January along with employees' W-2 earnings statements.

**Enter the ICHRA**

ICHRA, pronounced "ick-rahs" by benefits advisors and vendors, and created under regulations the IRS issued in June 2019 ([www.shrm.org/ResourcesAndTools/hr-topics/benefits/pages/new-final-rule-lets-employees-use-hras-to-buy-health-insurance.aspx](http://www.shrm.org/ResourcesAndTools/hr-topics/benefits/pages/new-final-rule-lets-employees-use-hras-to-buy-health-insurance.aspx)), allow employers to contribute a set dollar amount each year to each eligible full-time employee, tax-free. ALEs using ICHRAs to provide ACA-compliant health coverage must fund these accounts to allow employees to purchase coverage that meets the ACA's affordability threshold ([www.shrm.org/resourcesandtools/hr-topics/benefits/pages/irs-2020-affordability-threshold-for-employer-health-plans.aspx](http://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/irs-2020-affordability-threshold-for-employer-health-plans.aspx)). This means that for 2020, policy premiums must not have exceeded 9.78 percent of an employee's income.

**Demonstrating Affordability**

"The added codes to Form 1095-C (<https://www.peoplekeep.com/blog/irs-adds-ichra-affordability-codes-to-form-1095-c>) can help employees understand how their employer determined ICHRA affordability," wrote Josh Miner, senior product manager at Salt Lake City-based PeopleKeep, a provider of consumer-directed health accounts.

The draft revision of Form 1095-C adds eight new codes (1L - 1S) for employers to indicate the method they used to determine affordability for their ICHRA plan, he explained. Also added is a new Line 17 for the employee's primary residence's ZIP code to determine the cost of an accessible exchange-based plan.

As explained by HR services firm ADP, "In general, the contributions made by an employer using an ICHRA must be high enough that an employee could purchase the lowest-cost silver plan in his or her market (<https://www.adp.com/resources/articles-and-insights/articles/e/eow-irs-releases-draft-2020-aca-reporting-forms.aspx?referrer=%7bE2920188-A93E-4144-90CE-442A865BF40B%7d>), and not pay more than 9.5 percent (as adjusted annually) of his or her income out-of-pocket," as determined using existing affordability safe harbors.

**More Confusion and Added Costs?**

"While the draft Form 1095-C may alarm employers upon first glance, in reality most employers will not be impacted by the new sections and codes (<https://accord-aca.com/articles/2020-draft-form-1095-c>)" relating to ICHRAs, wrote Ryan Moulder, a Los Angeles-based partner at Health Care Attorneys PC and general counsel at Accord Systems LLC, an ACA compliance software firm.

Even so, "These changes will require alterations to existing employer reporting systems (<https://www.mzqconsulting.com/blog/aca-employer-reporting-why-2020-may-be-complicated>)," blogged advisors at MZQ Consulting in Pikesville, Md. "Plus, as drafted, the 1095-C statement for employees will print on two pages," raising costs for furnishing forms to employees.

The consultancy said it used the IRS forms comment page (<https://www.irs.gov/forms-pubs/comment-on-tax-forms-and-publications>) to request that the IRS "squeeze it all onto one page again" and suggested that other filers who view the longer form as an administrative and cost burden consider doing the same.

"Even though we don't know too many ALEs that went with the ICHRA option, we're going out on a limb and predicting that those who did are going to find the new codes a bit baffling," MZQ's consultants wrote.

Moulder expects the IRS will release draft instructions in the coming weeks that will provide additional details—and perhaps greater clarity—about completing the revised Form 1095-C.

### Small Employers' Reporting Requirements

Employers with fewer than 50 full-time equivalent employees are exempt from most, but not all (https://www.irs.gov/affordable-care-act/individuals-and-families/self-insured-employers-must-file-health-coverage-information-returns), ACA reporting obligations, the IRS points out. For example, self-insured small employers must complete and file Form 1095-B: Health Coverage (https://www.irs.gov/forms-pubs/about-form-1095-b) and transmittal Form 1094-B (https://www.irs.gov/forms-pubs/about-form-1094-b) with the IRS, as well as provide full-time employees with a copy of Form 1095-B, following the same deadlines that ALEs must meet for Form 1095-C.

The IRS has not yet issued drafts of these small-business forms for 2020 plan year reporting.

Small employers also are required to file Forms 1095-C and 1094-C if they are members of a controlled or affiliated service group that collectively has at least 50 full-time employees.

#### Related SHRM Articles:

IRS Raises 2021 Employer Health Plan Affordability Threshold to 9.83% of Pay (www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/irs-raises-2021-affordability-threshold-for-employer-health-plans.aspx), *SHRM Online*, July 2020

ACA Reporting Checkup: What Employers Need to Know (www.shrm.org/resourcesandtools/hr-topics/benefits/pages/aca-reporting-checkup-for-employers.aspx), *SHRM Online*, March 2020

Will ICHRAs Become the 401(k)s of Employee Health Benefits? (www.shrm.org/resourcesandtools/hr-topics/benefits/pages/will-ichras-become-the-401ks-of-employee-health-benefits.aspx), *SHRM Online*, October 2019

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