

# Congress Considers 'Commonsense Reporting Act' to Streamline ACA Filings

Reforms could reduce employers' compliance burdens

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October 4, 2021

**L**egislation reintroduced in the U.S. House of Representatives on Sept. 21 (<https://www.govinfo.gov/app/details/BILLS-117hr5318ih/summary>), if enacted, could simplify employers' annual Affordable Care Act (ACA) reporting of health plan information to the IRS.

The bipartisan Commonsense Reporting Act of 2021 (<https://www.congress.gov/bill/117th-congress/house-bill/5318/text?r=26&s=1>) (H.R. 5318) was reintroduced by Reps. Mike Thompson, D-Calif., and Adrian Smith, R-Neb. A Senate version of the legislation is expected to be reintroduced shortly, sponsored by Sens. Mark Warner, D-Va., and Rob Portman, R-Ohio.

## Reducing Reporting Burdens

Under current law, employers must report annual data to the IRS under tax code Sections 6055 and 6056 during the year-end tax filing season. These provisions require HR professionals to track data each month.

The Commonsense Reporting Act would allow reporting to be done prospectively before the beginning of a new coverage year, based on employee coverage during the current plan year.

Research by the Society for Human Resource Management (SHRM) shows that fulfilling these requirements comes at great time and expense to employers. If an employer is unable to submit IRS forms, they may face serious financial penalties. On Sept. 9, during the SHRM Annual Conference & Expo 2021, more than 3,000 SHRM members called on Congress to act on legislation to streamline and modernize IRS reporting requirements for employers.

"With 300,000-plus HR professionals and business executives as members, SHRM appreciates congressional efforts to streamline and modernize health care benefit reporting requirements," said Emily Dickens, SHRM's chief of staff, head of government affairs and corporate secretary. "Our membership's expertise includes administering and reporting on health care benefits. This effort will directly impact their work."

According to a SHRM position statement (<https://advocacy.shrm.org/issue/call-on-congress-to-support-commonsense-reporting-reform/>):

"A more streamlined, proactive reporting system would reduce burden on employers and the IRS. Additionally, such an approach would provide compliance relief by allowing employers participating in to transmit Form 1095 to employees electronically rather than requiring each form be printed and mailed."

[SHRM members-only toolkit: *Complying with the Affordable Care Act* ([www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/complyingwithandleveragingtheaffordablecareact.aspx](http://www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/complyingwithandleveragingtheaffordablecareact.aspx))]

### What the Bill Would Do

As summarized by the Partnership for Employer-Sponsored Coverage (P4ESC)

(<https://static1.squarespace.com/static/5a5ceeaf49fc2b12ef547012/t/614b5c7d42fd5366062c77fb/1632328829545/P4ESC+Commonsense+Reporting+Act+117th.pdf>), which is made up of 16 professional associations including SHRM, the Commonsense Reporting Act would:

- **Create a voluntary prospective reporting system.** Allowing employers to voluntarily report coverage information to the IRS prospectively about their health plan, using data for the current plan year, could increase the accuracy of eligibility determinations for ACA marketplace exchange tax credits. State and federally facilitated exchanges would access information securely through a data services hub. The IRS would use the information to issue Letter 226-J tax penalty notices more accurately.
- **Protect consumer financial security and individual privacy.** ACA exchanges would have a better verification tool and real-time employer plan information for tax credit determinations, which could reduce the threat of an individual having to pay the IRS back for the value of the exchange plan. The bill also clarifies that the IRS can accept full names and dates of birth in lieu of dependents' and spouses' Social Security numbers and requires the Social Security Administration to assist in the data-matching process.
- **Protects employers and streamlines compliance burdens.** By enabling the employer to prospectively report information about an ACA-compliant health plan, the bill reduces the threat to an employer of receiving a Letter 226-J tax penalty notice. It provides compliance relief by not requiring employers that choose to prospectively report to produce, print and mail Form 1095 for all enrolled employees, and enables electronic transmission of a Form 1095 when individually requested.
- **Provides additional tax compliance relief.** The bill extends the Letter 226-J appeals time from the current 30 days to 90 days, better aligning with remote-working and business operation needs during the pandemic and beyond. It establishes a tax penalty levy statute of limitations for the employer mandate to align with other tax code levy and record-keeping limits.
- **Establishes oversight of reporting verification.** The Government Accountability Office would be required to study the functionality of the prospective reporting system, including the accuracy of information collected, the number of employers electing to report under such a system, and any changes that have arisen.

Feedback

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