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[4830-01-p]

## **DEPARTMENT OF THE TREASURY**

Internal Revenue Service

26 CFR Parts 1 and 301

[REG-109128-21]

RIN 1545-BQ11

Information Reporting of Health Insurance Coverage and Other Issues under §§ 5000A, 6055, and 6056

**AGENCY:** Internal Revenue Service (IRS), Treasury

**ACTION:** Notice of proposed rulemaking

**SUMMARY:** This document contains proposed regulations providing that “minimum essential coverage,” as that term is used in health insurance-related tax laws, does not include Medicaid coverage that is limited to COVID-19 testing and diagnostic services provided under the Families First Coronavirus Response Act. The proposed regulations also would provide an automatic extension of time for providers of minimum essential coverage (including health insurance issuers, self-insured employers, and government agencies) to furnish individual statements regarding such coverage and would provide an alternative method for furnishing individual statements when the shared responsibility payment amount is zero. Additionally, the proposed regulations would provide an automatic extension of time for “applicable large employers” (generally

employers with 50 or more full-time or full-time equivalent employees) to furnish statements relating to health insurance that the employer offers to its full-time employees. The proposed regulations would affect some taxpayers who claim the premium tax credit; health insurance issuers, self-insured employers, government agencies, and other persons that provide minimum essential coverage to individuals; and applicable large employers.

**DATES:** Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Requests for a public hearing must be submitted as prescribed in the “**Comments and Requests for a Public Hearing**” section.

**ADDRESSES:** Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (indicate IRS and REG-109128-21) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Internal Revenue Service (IRS) expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable, on paper, to its public docket. Send paper submissions to: CC:PA:LPD:PR (REG-109128-21), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, call

Gerald Semasek, Office of Associate Chief Counsel (Income Tax and Accounting), (202) 317-7006 (not a toll-free number); concerning submissions of comments and requests for a public hearing, call Robin Jones at (202) 317-6901 (not a toll-free number) or send an email to [publichearings@irsconsult.treas.gov](mailto:publichearings@irsconsult.treas.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

This document contains proposed amendments to 26 CFR parts 1 (Income Tax Regulations) and 301 (Procedure and Administration Regulations) under sections 5000A, 6055, and 6056 of the Internal Revenue Code (Code).

#### 1. Minimum Essential Coverage under Section 5000A

Beginning in 2014, under the Patient Protection and Affordable Care Act, Pub. L. 111-148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152, 124 Stat. 1029 (2010) (collectively, the Affordable Care Act or ACA), eligible individuals who purchase coverage under a qualified health plan through a Health Insurance Exchange (Exchange) established under section 1311 of the ACA may claim a premium tax credit under section 36B of the Code. Section 36B and §1.36B-3 of the Income Tax Regulations provide that a taxpayer is allowed a premium tax credit only for months that are coverage months for individuals in the taxpayer's family, as defined in §1.36B-1(d). Under §1.36B-3(c)(1)(iii), a "coverage month" for an individual includes only those months the individual is not eligible for minimum essential coverage other than coverage in the individual market.

Section 5000A was added to the Code by section 1501 of the ACA. Section 5000A(f)(1) defines "minimum essential coverage" to include various types of health

plans and programs, including, for example, specified government-sponsored programs such as the Medicare program under Part A of title XVIII of the Social Security Act; the Medicaid program under Title XIX of the Social Security Act; the Children's Health Insurance Program under Title XXI of the Social Security Act (CHIP); the TRICARE program under chapter 55 of Title 10, United States Code (U.S.C.); health care programs for veterans and other individuals under chapter 17 or 18 of Title 38, U.S.C.; coverage for Peace Corps volunteers under 22 U.S.C. 2504(e); coverage under the Nonappropriated Fund Health Benefits Program under section 349 of Public Law 103-337; and coverage under an eligible employer-sponsored plan. Section 1.5000A-2(b)(2) of the Income Tax Regulations lists certain government-sponsored programs that do not constitute minimum essential coverage.

Section 5000A requires that individuals have minimum essential coverage for each month in the taxable year, qualify for an exemption from the minimum essential coverage requirement, or make an individual shared responsibility payment upon filing a federal income tax return. Section 11081 of Public Law 115-97, 131 Stat. 2054, 2092 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA), reduces the individual shared responsibility payment amount to zero for months beginning after December 31, 2018.

## 2. Information Reporting under Sections 6055 and 6056

Section 6055 of the Code provides that all persons who provide minimum essential coverage to an individual must report certain information to the IRS that identifies covered individuals and the period of coverage. See section 6055(a) and (b). Those persons also must furnish a statement to the covered individuals containing the

same information. See section 6055(c). Under section 6055(a), (c)(2), and §1.6055-1(f) and (g), every person that provides minimum essential coverage to an individual during the calendar year is required to file with the IRS an information return and a transmittal on or before February 28 (March 31 if filed electronically) of the year following the calendar year to which it relates and to furnish to the responsible individual identified on the return a written statement on or before January 31 of the year following the calendar year to which the statement relates. The information returns and written statements must include certain information about the reporting entity, the name and taxpayer identification number (TIN) of the responsible individual, the name and TIN of each individual covered under the health policy, and any other information specified in IRS instructional materials. See §1.6055-1(e) and (g)(4). The IRS generally has designated Form 1094-B, Transmittal of Health Coverage Information Returns, and Form 1095-B, Health Coverage, to meet the section 6055 requirements.

Section 6056 of the Code requires an applicable large employer (ALE), as defined in section 4980H(c) of the Code, that is required to meet the requirements of section 4908H to file annually information returns and furnish written statements in relation to the health insurance, if any, that the employer offers to its full-time employees. These information returns and written statements are needed in order to administer the employer shared responsibility provisions of section 4980H.

Under section 6056(a), (c)(2), and §301.6056-1(e) and (g), every ALE or member of an aggregated group that is determined to be an ALE (ALE member) is required to file with the IRS an information return and a transmittal on or before February 28 (March 31 if filed electronically) of the year following the calendar year to which it relates and to

furnish to full-time employees a written statement on or before January 31 of the year following the calendar year to which the statement relates. The IRS generally has designated Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, to meet the section 6056 requirements.

In addition, an ALE member that offers coverage through a self-insured health plan must complete the reporting required under section 6055, specifically the information regarding each individual enrolled in the self-insured health plan, using Form 1095-C, Part III, rather than Form 1095-B. ALE members use Form 1095-C, Part III, to meet the section 6055 reporting requirement for all employees. For individuals who are not full-time employees, ALE members report only certain information to reflect that the Form 1095-C is being used to complete the section 6055 reporting applicable to individuals who are not full-time employees, but not the section 6056 reporting applicable only to full-time employees.

The current regulations under sections 6055 and 6056 allow the IRS to grant an extension of time of up to 30 days to furnish Forms 1095-B and 1095-C for good cause shown. See §§1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A). Additionally, filers of Forms 1095-B, 1094-C and 1095-C may receive an automatic 30-day extension of time to file the forms with the IRS by submitting Form 8809, Application for Extension of Time to File Information Returns, on or before the due date for filing the forms. See §§1.6081-1 and 1.6081-8.

### 3. Information Reporting Penalties under Sections 6721 and 6722

Section 6721 imposes a penalty for failing to timely file an information return or for filing an incorrect or incomplete information return. Section 6722 imposes a penalty for failing to timely furnish an information statement or furnishing an incorrect or incomplete information statement. The section 6721 and 6722 penalties are imposed with regard to information returns and statements listed in section 6724(d), which include those required by sections 6055 and 6056. Section 6724 provides that no penalty will be imposed under section 6721 or 6722 with respect to any failure if it is shown that the failure is due to reasonable cause and not to willful neglect.

The preambles to the section 6055 and 6056 regulations provided that the IRS would not impose section 6721 and 6722 penalties on reporting entities for the reporting of 2015 health coverage and offers of coverage if those entities could show that they made good faith efforts to comply with the information reporting requirements (transitional good faith relief). See T.D. 9660, 79 FR 13220 at 13226 (Mar. 10, 2014); T.D. 9661, 79 FR 13231 at 13246 (Mar. 10, 2014). The transitional good faith relief covered incorrect or incomplete information, including TINs or dates of birth, reported on information returns or statements. The relief did not apply to a failure to timely file or furnish a return or statement, or when the filer failed to make a good faith effort to comply with the reporting requirements. The preambles to the section 6055 and 6056 regulations also stated that reporting entities failing to meet the reporting requirements of the regulations may have been eligible for penalty relief if the IRS determined the standards for reasonable cause under section 6724 were satisfied. The Treasury Department and the IRS reiterated the transitional good faith relief in Notice 2015-68,

2015-41 I.R.B. 547 (Oct. 13, 2015), and Notice 2015-87, 2015-52 I.R.B. 889 (Dec. 28, 2015).

## **Explanation of Provisions**

### **1. Medicaid Coverage of COVID-19 Testing and Diagnostic Services under Section 5000A**

Notice 2020-66, 2020-40 I.R.B. 785 (Sept. 28, 2020), provides that Medicaid coverage that is limited to COVID-19 testing and diagnostic services under section 6004(a)(3) of the Families First Coronavirus Response Act, Pub. L. 116-127, 134 Stat. 178 (Mar. 18, 2020) is not minimum essential coverage under a government-sponsored program. As a consequence, an individual's eligibility for such coverage for one or more months does not prevent those months from qualifying as coverage months for purposes of determining eligibility for the premium tax credit under section 36B. Notice 2020-66 applies to taxable years beginning in or after 2020.

Notice 2020-66 further indicates that the Treasury Department and the IRS intend to amend §1.5000A-2 to provide guidance respecting Medicaid coverage for COVID-19 testing and diagnostic services. Accordingly, these proposed regulations propose to amend §1.5000A-2 by adding Medicaid coverage for COVID-19 testing and diagnostic services to the enumerated health coverages under §1.5000A-2(b)(2) that do not qualify as minimum essential coverage under a government-sponsored program.

Notice 2020-66 provides that taxpayers, including ALEs, may continue to rely on the guidance described in Notice 2020-66 if no proposed regulations or other guidance are released within 18 months after September 28, 2020, which is the date that Notice 2020-66 was published in the Internal Revenue Bulletin.



## 2. Time and Manner for Furnishing Statements under Sections 6055 and 6056

Through a series of notices, the Treasury Department and the IRS extended the due dates for furnishing statements to individuals under sections 6055 and 6056 for years 2015 through 2019. See Notice 2016-04, 2016-3 I.R.B. 279 (Jan. 19, 2016); Notice 2016-70, 2016-49 I.R.B. 784 (Dec. 5, 2016); Notice 2018-06, 2018-3 I.R.B. 300 (Jan. 16, 2018); Notice 2018-94, 2018-51 I.R.B. 1042 (Dec. 17, 2018); and Notice 2019-63, 2019-51 I.R.B. 1390 (Dec. 16, 2019). Those notices extended the due date for furnishing Forms 1095-B and 1095-C by 30 days (or the next business day if the 30th day fell on a Saturday, Sunday or legal holiday), except that for 2015 information statements, the furnishing due date was extended by 60 days.

In addition to extending the due dates for furnishing statements, Notices 2018-94 and 2019-63 stated that, as a result of the TCJA's reduction of the shared responsibility payment amount under section 5000A(c) to zero for months beginning after December 31, 2018, the Treasury Department and the IRS were studying how the reporting requirements under section 6055 should change, if at all, for future years. Notice 2019-63 also requested comments on whether an extension of the due date for furnishing statements to individuals pursuant to section 6056 would be necessary for future years, and whether the reporting requirements under section 6055 should change for future years. Only one comment was received.

Notice 2020-76, 2020-47 I.R.B. 1058 (Nov. 16, 2020) provided an automatic extension of time for reporting entities to furnish 2020 information statements (Forms 1095-B and 1095-C) to individuals from January 31, 2021, to March 2, 2021. The notice stated that the Treasury Department and the IRS determined that a substantial number

of employers, insurers, and other providers of minimum essential coverage needed additional time beyond January 31, 2021, to gather and analyze the information necessary to prepare and issue the Forms 1095-B and 1095-C. Notice 2020-76 also provided that because of the grant of the automatic extension to March 2, 2021, for furnishing Forms 1095-B and 1095-C, §§1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A) (allowing the IRS to grant an extension of time of up to 30 days to furnish Forms 1095-B and 1095-C) would not apply. The notice did not extend the due dates for filing 2020 Forms 1095-B, 1094-C, or 1095-C with the IRS. The provisions of §§1.6081-1 and 1.6081-8 (allowing an automatic extension of time for filing information returns by submission of a Form 8809 before the due date) were not affected by Notice 2020-76.

The Treasury Department and the IRS received 119 public comments in response to Notice 2020-76. The commenters included health insurance providers, employers, associations, governmental agencies, payroll processors, and others. Nearly all commenters generally supported an extension of the due date for furnishing Forms 1095-B and 1095-C to responsible individuals and employees. The commenters generally indicated that the current January 31 deadline to furnish Forms 1095-B and 1095-C to responsible individuals and employees, under section 6055(c)(2) and 6056(c)(2), and §§1.6055-1(g)(4)(i)(A) and 1.6056-1(g)(1)(i), is difficult to meet.

Commenters noted that the process by which reporting entities compile accurate health coverage offer and enrollment information is complex and often takes more time than the current January 31 deadline allows. Employers are required to compile offer and enrollment information for large numbers of employees, sometimes from multiple

systems, verify the accuracy of the information, and transmit the information to vendors so that the statements can be timely issued to individuals. Commenters further indicated that, while health coverage information is tracked throughout the year, accurate reporting on Forms 1095-B and 1095-C includes data and information from the month of December, which necessarily requires employers to spend substantial time after the close of the year compiling and verifying data. A number of commenters stated that the data and information necessary to prepare the forms is not available until mid-January and that the period required to prepare and mail the large numbers of forms can take from three to seven weeks.

Commenters also pointed out that the January 31 deadline for furnishing Forms 1095-B and 1095-C to individuals may make it difficult for employers to make changes to their benefit plans near the end of the calendar year. Commenters further noted that the January 31 deadline coincides with the due dates of other government forms, including Form W-2, Form 1099-NEC, Form 941 for the fourth quarter, and annual Forms 940 and 945. One commenter wrote that the substantial time necessary to complete Forms 1095-B and 1095-C is attributable to the fact that the information required depends upon detailed employer and employee activities. The commenter stated that, in some cases, employers must undertake a day-by-day or person-by-person assessment, which may lead to varied individual results in the codes that are required to be entered on the forms. These factors, the commenter noted, make the Forms 1095-B and 1095-C meaningfully distinguishable from other information returns on which aggregate dollar amounts are reported for the year – for example, Form W-2 – without regard to day-by-day activity.

Some of the commenters indicated that, if a more permanent automatic extension of the January 31 furnishing deadline is not provided for future reporting, entities will annually request additional time to produce and mail accurate Forms 1095-B and 1095-C pursuant to the current extension procedures. The result would be that the IRS would need to process a significant number of extension requests each year.

a. Extension of Deadline for Furnishing Statements under Section 6055

To reduce administrative burdens for reporting entities and the IRS, the Treasury Department and the IRS have determined that the furnishing requirements under §1.6055-1(g) should be modified by providing an automatic extension of time for reporting entities to furnish statements to responsible individuals. This proposed amendment to the regulations under section 6055 is consistent with Notice 2020-76.

Under these proposed regulations, §1.6055-1(g)(4)(i) is proposed to be amended to provide that reporting entities are granted an automatic extension of time, not to exceed 30 days, in which to furnish the written statements required by §1.6055-1(g). Because this extension is automatic, the proposed regulations eliminate the requirement in §1.6055-1(g)(4)(i)(B)(1) that a reporting entity make a written application to the IRS showing good cause to request an extension of time to furnish the statement. Under this proposed amendment to the regulations, statements (Forms 1095-B) furnished to responsible individuals will be timely if furnished no later than 30 days after January 31 of the calendar year following the calendar year in which minimum essential coverage is provided. If the extended furnishing date falls on a weekend day or legal holiday, statements will be timely if furnished on the next business day. See section 7503. The automatic 30-day extension would replace both the 30-day extension for

good cause in §1.6055-1(g)(4)(i)(B)(1) and the authorization for the Commissioner to provide automatic extensions in §1.6055-1(g)(4)(i)(B)(2).

b. Alternative Manner of Furnishing Statements under Section 6055

Notice 2020-76 indicates that, because the TCJA reduced the individual shared responsibility payment amount to zero for 2020, responsible individuals do not need the information on Form 1095-B to prepare and file their individual returns. Nonetheless, reporting entities required to furnish Forms 1095-B must expend resources to do so. In light of those factors, the Treasury Department and the IRS determined that relief from the penalty under section 6722 for failing to furnish a statement (Form 1095-B) required under section 6055 for 2020 was in the interest of sound tax administration in certain cases. Thus, Notice 2020-76 provided that the IRS would not assess a section 6722 penalty against a reporting entity for failing to furnish Form 1095-B to responsible individuals for 2020 in cases when two conditions were met (2020 section 6055 furnishing relief). First, a reporting entity was required to post a notice prominently on its website stating that responsible individuals may receive a copy of their 2020 Form 1095-B upon request, accompanied by an email address and a physical address to which a request may be sent, along with a telephone number that responsible individuals may use to contact the reporting entity with any questions. Second, a reporting entity was required to provide a 2020 Form 1095-B to a responsible individual upon request within 30 days of the date the request was received. A reporting entity could furnish the statements to responsible individuals electronically if the requirements of §1.6055-2 were satisfied.

Because of the combined reporting by ALE members under sections 6055 and 6056 on Form 1095-C for full-time employees of ALE members enrolled in self-insured health plans, the 2020 section 6055 furnishing relief was not extended to the requirement to furnish Forms 1095-C to full-time employees. The 2020 section 6055 furnishing relief, however, applied to penalty assessments related to the requirement to furnish Form 1095-C to a part-time employee enrolled in an ALE member's self-insured plan for any month in 2020, subject to the two requirements of the 2020 section 6055 furnishing relief. Finally, the 2020 section 6055 furnishing relief did not extend to the assessment of penalties relating to failures to file the 2020 Forms 1094-B or 1095-B or the Forms 1094-C or 1095-C, as applicable, with the IRS.

In response to Notice 2020-76, a number of health plan providers, governmental agencies, and associations requested that the 2020 section 6055 furnishing relief be made permanent or extended at least for the time periods when the individual shared responsibility payment amount is zero. These commenters echoed the considerations identified in Notice 2020-76 supporting the 2020 section 6055 furnishing relief. Namely, commenters pointed to the high costs associated with producing and mailing Forms 1095-B although individuals have no need for the information on the Form 1095-B to correctly compute federal tax liability and timely file returns. Commenters cited additional production and/or mailing costs ranging from a half million to more than four million dollars annually without the relief. One state agency reported receiving only 478 requests for Form 1095-B from approximately one million Medicaid recipients for 2019. Other commenters indicated that a small number of individuals need proof of minimum essential coverage to satisfy certain state requirements, but that very few individuals

have otherwise requested the Form 1095-B. Some commenters pointed out that taxpayers may be confused by the receipt of Forms 1095-B.

In light of the public comments received, §1.6055-1(g)(4) is proposed to be amended by adding new paragraph (g)(4)(ii)(B) to provide an alternative manner for a reporting entity to timely furnish statements. Under this alternative manner of furnishing, the reporting entity must post a clear and conspicuous notice on the entity's website stating that responsible individuals may receive a copy of their statement upon request. The notice must include an email address, a physical address to which a request may be sent, and a telephone number that responsible individuals may use to contact a reporting entity with any questions. This alternative manner of furnishing will apply only to taxable years when the shared responsibility payment amount under section 5000A(b) is zero.

One commenter requested that, if the 2020 section 6055 furnishing relief is extended, a self-insured ALE member should continue to be permitted to use the relief for employees who are enrolled in the ALE's self-insured plan and who are not full-time employees of the ALE. The commenter also requested that the proposed regulations allow a self-insured ALE member to use the 2020 section 6055 furnishing relief for non-employees, such as former employees of the ALE, who are enrolled in the self-insured plan. The proposed regulations adopt both requests in the rules for the alternative method of furnishing. However, consistent with the guidance in Notice 2020-76, the proposed regulations do not allow ALE members to use the alternative method of furnishing for full-time employees who are enrolled in the self-insured plan.

The proposed regulations also address a suggestion of a commenter to Notice 2020-76 who requested that future guidance specify the time period a reporting entity is required to retain the notice on its website and also explain how prominent the notice must be. The provisions of proposed §1.6055-1(g)(4)(ii)(B) provide that a reporting entity satisfies the furnishing requirements under §1.6055-1(g)(4) by retaining the website notice until October 15 of the year following the calendar year to which the statement relates. Additionally, the proposed regulations clarify the requirement in Notice 2020-76 that a reporting entity include a prominently posted notice on its website. Under the proposal, a reporting entity must include a clear and conspicuous notice on the reporting entity's website that is reasonably accessible by individuals who may search the entity's website for tax information. A notice posted on a reporting entity's website will satisfy the requirement under proposed §1.6055-1(g)(4)(ii)(B) if written in plain, non-technical terms and with letters of a font size large enough (including any visual clues or graphical figures) to call to a viewer's attention that the information pertains to tax statements reporting that individuals had health coverage. For example, a reporting entity's website that includes a statement on the main page, or a link on the main page, reading "Tax Information," to a secondary page that includes a statement, in capital letters, "IMPORTANT HEALTH COVERAGE TAX DOCUMENTS;" explains how responsible individuals may request a copy of Form 1095-B, Health Coverage, or Form 1095-C, Employer-Provided Health Insurance Offer and Coverage, as applicable; and includes the reporting entity's email address, mailing address, and telephone number, is a clear and conspicuous notice under these proposed regulations.



One commenter requested that the 2020 section 6055 furnishing relief be modified to allow a reporting entity to satisfy the furnishing requirement under §1.6055-1(g) by including only a link to a member portal through which responsible individuals may receive a copy of the Form 1095-B via electronic download. The commenter stated that because responsible individuals will have located and navigated the website of a reporting entity to locate the entity's address and other contact information, the website notice informing individuals of the ability to request a Form 1095-B should not have to also include contact information. The commenter noted that the process under which responsible individuals will send written requests or call customer service representatives of reporting entities to request Forms 1095-B will take time and add costs to providing health care. Under the commenter's proposal, reporting entities that do not provide a member portal for individuals to download and receive the Form 1095-B will be required to include a website notice with an email address, physical address, and telephone number for individuals to call to request the form, consistent with the first condition of the 2020 section 6055 furnishing relief.

The requirement in these proposed regulations that a reporting entity include its email address, mailing address, and telephone number on a website notice informing individuals of the ability to request a Form 1095-B is consistent with other information reporting provisions. See, for example, §1.6050S-1(c)(1)(iii)(G) (an educational institution or insurer issuing Form 1098-T, Tuition Statement, is required to include contact information on statement). A responsible individual may have questions about how to request a copy of the statement required under §1.6055-1(g) for the taxable year or may have questions about some of the information on the statement. The proposed

rule requiring the reporting entity's contact information on a posted website notice fulfills that need for responsible individuals. Accordingly, the comment recommending that a reporting entity may provide only website access to a member portal (and capability to electronically download Form 1095-B) without the reporting entity's contact information is not adopted.

If, in the future, the shared responsibility payment amount under section 5000A(b) is not zero, the Treasury Department and the IRS anticipate that reporting entities will need adequate time to develop or restart processes for preparing and mailing paper statements to responsible individuals. If the shared responsibility payment amount is modified in the future, the Treasury Department and the IRS anticipate providing guidance, if necessary, to allow sufficient time for reporting entities to restart the reporting process.

c. Extension of Deadline for Furnishing Statements under Section 6056

For the reasons discussed in section 2 of the Explanation of Provisions, the Treasury Department and the IRS have determined that, to reduce administrative burdens for ALE members and the IRS, the furnishing requirements under §301.6056-1(g)(1) should be modified by providing an automatic extension of time for ALE members to furnish written statements to full-time employees. This proposed amendment to the regulations under section 6056 is consistent with Notice 2020-76.

Under these proposed regulations, §301.6056-1(g)(1) is proposed to be amended to provide that ALE members are granted an automatic extension of time, not to exceed 30 days, in which to furnish the written statements to full-time employees. Because the extension is automatic, the proposed regulations eliminate the requirement

in §301.6056-1(g)(1)(ii)(A) that an ALE member make a written application to the IRS showing good cause or to otherwise request an extension of time to furnish the statement. Under this proposed amendment to the regulations, statements (Forms 1095-C) furnished to full-time employees will be timely if furnished no later than 30 days after January 31 of the calendar year in accordance with applicable Internal Revenue Service procedures and instructions. If the extended furnishing date falls on a weekend day or legal holiday, statements will be timely furnished if provided on the next business day. See section 7503. The automatic 30-day extension would replace both the 30-day extension for good cause in §301.6056-1(g)(1)(ii)(A) and the authorization for the Commissioner to provide automatic extensions in §301.6056-1(g)(1)(ii)(B).

### 3. Elimination of Transitional Good Faith Relief

As noted in the Background section of this preamble, the preambles to the regulations under sections 6055 and 6056 provided that the IRS would grant transitional good faith relief by not imposing penalties under sections 6721 and 6722 on reporting entities for the reporting of 2015 health coverage and offers of coverage if those entities could show that they made good faith efforts to comply with the information reporting requirements. See T.D. 9660; T.D. 9661. The Treasury Department and the IRS extended that transitional good faith relief for years 2015 through 2019 in the series of notices that extended the due dates for the requirements for furnishing statements to individuals under sections 6055 and 6056 for those years. See Notice 2016-04; Notice 2016-70; Notice 2018-06; Notice 2018-94; Notice 2019-63; and Notice 2020-76. In Notice 2020-76, the Treasury Department and the IRS stated that 2020 was the last year that transitional good faith relief would be provided. Thus, the transitional good

faith relief from penalties under sections 6721 and 6722 for the reporting of incorrect or incomplete information on information returns or statements is not available for reporting for tax year 2021 and subsequent years.

This good faith relief was intended to be transitional to accommodate public concerns with implementing the then newly enacted reporting requirements under the ACA. These reporting requirements have now been in place for six years, and transitional relief is no longer appropriate. Some commenters requested that the relief be extended due to continued difficulty in understanding the reporting requirements, periodic changes to the ACA, and the uncertainty related to the COVID-19 pandemic. Although the Treasury Department and the IRS are sympathetic to those concerns, additional good faith relief is not necessary to address them. The reasonable cause exception under section 6724 already provides adequate relief from penalties under sections 6721 and 6722 for filers who have reasonable cause for failing to timely or accurately complete their reporting requirements. Therefore, the Treasury Department and the IRS will discontinue the transitional good faith relief after tax year 2020.

#### 4. Renewed Comment Request on the Section 6055 2016 Proposed Regulations

In Notice 2015-68, the Treasury Department and the IRS announced that they intended to propose regulations under section 6055 that would: (1) provide that health insurance issuers must report coverage in a catastrophic plan; (2) allow filers reporting on insured group health plans to use a truncated TIN to identify the employer on the statement furnished to a taxpayer; and (3) specify when a provider of minimum essential coverage is not required to report duplicative or supplemental coverage. The notice also invited comments on issues relating to TIN solicitation and provided that until

the issuance of additional guidance, reporting entities would not be subject to penalties for failure to report a TIN if they met certain requirements. Finally, the notice advised that governments of United States possessions or territories are not required to report coverage under Medicaid and the Children's Health Insurance Program (CHIP) and that a state government agency sponsoring coverage under the Basic Health Program is required to report that coverage.

On August 2, 2016, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-103058-16) in the **Federal Register** (81 FR 50671) (2016 proposed regulations). Consistent with Notice 2015-68, the 2016 proposed regulations proposed to address catastrophic health coverage, truncated TINs, and duplicative or supplemental coverage. With regard to TIN solicitations, the 2016 proposed regulations incorporated the penalty relief in Notice 2015-68, with certain revisions to the requirements in response to comments. The 2016 proposed regulations also proposed to incorporate the guidance in Notice 2015-68 related to United States possessions or territories and reporting regarding the Basic Health Program. The 2016 proposed regulations provided that, until the regulations were finalized, reporting entities could rely on the guidance in Notice 2015-68. In addition, any issuer that voluntarily files returns or furnishes statements on catastrophic coverage before final regulations are issued will not be subject to penalties for those returns or statements. See Notice 2017-41, 2017-34 I.R.B. 211 (Aug. 21, 2017).

The Treasury Department and the IRS received 16 comments on the 2016 proposed regulations but have not issued a Treasury Decision finalizing the 2016 proposed regulations. No public hearing was requested or held. The Treasury

Department and the IRS are renewing their request for comments on all aspects of the 2016 proposed regulations and, after considering the comments received, intend to finalize the 2016 proposed regulations as part of any Treasury Decision finalizing these proposed regulations. Written or electronic comments must be received by **[INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

### **Statement of Availability of IRS Documents**

IRS revenue procedures, revenue rulings, notices, and other guidance cited in this preamble are published in the Internal Revenue Bulletin and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

### **Proposed Applicability Date**

The regulations under §1.5000A-2, once final, are proposed to apply for months beginning after September 28, 2020. For months beginning on or after January 1, 2020, and before September 28, 2020, taxpayers may continue to rely on Notice 2020-66. Taxpayers may rely on §1.5000A-2 of these proposed regulations for months beginning after September 28, 2020, and before the date a Treasury Decision finalizing these regulations is published in the **Federal Register**. The regulations under §§1.6055-1 and 301.6056-1, once final, are proposed to apply for calendar years beginning after December 31, 2021. Taxpayers may rely on §§1.6055-1 and 301.6056-1 of these proposed regulations for calendar years beginning after December 31, 2020, and before the date a Treasury Decision finalizing the regulations is published in the

**Federal Register.** See the 2016 proposed regulations for the proposed applicability dates of those proposed rules.

## **Special Analyses**

### I. Regulatory Planning and Review – Economic Analysis

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations.

### II. Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

There is no collection of information contained in these proposed regulations. The collections of information contained in §§1.6055-1 and 301.6056-1 were previously reviewed and approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and are associated with control numbers 1545-2251 (associated with Form 1095-C) and 1545-2252 (associated with Form 1095-B).

The Paperwork Reduction Act (44 U.S.C. 3501-3520) relates to information collection requests by any government agency. A collection of information generally means the “obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either (1) answers to identical questions posted to, or identical reporting or recordkeeping requirements imposed on ten or more persons, other than

agencies, instrumentalities, or employees of the United States, or (2) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes.” 44 U.S.C. 3502(3). A collection of information is commonly referred to as a reporting, recordkeeping, or disclosure requirement.

These proposed regulations do not require a reporting entity to provide any information to the Federal government, to maintain specific records, or to disclose any additional information that the reporting entity did not already have a requirement to disclose.

### III. Initial Regulatory Flexibility Analysis

When an agency issues a proposed rulemaking, the Regulatory Flexibility Act (5 U.S.C. chapter 6) (Act) requires the agency to “prepare and make available for public comment an initial regulatory flexibility analysis” that “describe[s] the impact of the proposed rule on small entities.” 5 U.S.C. 603(a). The term “small entities” is defined in 5 U.S.C. 601 to mean “small business,” “small organization,” and “small governmental jurisdiction,” which are also defined in 5 U.S.C. 601. Small business size standards define whether a business is “small” and have been established for types of economic activities, or industry, generally under the North American Industry Classification System (NAICS). See Title 13, Part 121 of the Code of Federal Regulations (titled “Small Business Size Regulations”). The size standards look at various factors, including annual receipts, number of employees, and amount of assets, to determine whether the business is small. See Title 13, Part 121.201 of the Code of Federal Regulations for the Small Business Size Standards by NAICS Industry.



Section 605 of the Act provides an exception to the requirement to prepare an initial regulatory flexibility analysis if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

The Treasury Department and the IRS conclude that, although the overall impact of these proposed regulations will substantially reduce the burden on small entities, these proposed regulations, if finalized, will impact a substantial number of small entities and the economic impact on those small entities will be significant. As a result, although the impact of these regulations is positive for small entities, an initial regulatory flexibility analysis is required.

*Description of the reasons why the agency action is being considered.*

The proposed regulations under §1.5000A-2 propose to make permanent the guidance in Notice 2020-66 regarding whether certain Medicaid coverage of COVID-19 testing and diagnostic services is minimum essential coverage. The proposed regulations under §§1.6055-1 and 301.6056-1 propose to make permanent the extension of time to furnish Forms 1095-B and 1095-C to responsible individuals and employees that has been provided every year since 2015. The proposed regulations under §1.6055-1 also allow reporting entities to furnish the statement required by section 6055 by providing notice on their website and by providing the statement to the responsible individual upon request.

The proposed regulations under §1.5000A-2 will ensure that taxpayers have accurate guidance when determining whether they have minimum essential coverage, which in turn will assist taxpayers in determining whether they qualify for the premium tax credit. The proposed regulations under §§1.6055-1 and 301.6056-1 will reduce the

burden on reporting entities by extending the time to satisfy their reporting obligations with regard to health care coverage without worrying whether the penalty under section 6722 will be imposed. The extension should result in increased timely and accurate reporting. Those proposed regulations also reduce the burden on reporting entities by providing a low-cost option to satisfy the reporting obligation under section 6055 at a time when responsible individuals do not need the information to complete their returns.

*Statement of the objectives of, and the legal basis for, the proposed rule.*

The principal objectives of the proposed regulations are to provide taxpayers with definitive guidance of what constitutes, or does not constitute, minimum essential coverage, to provide reporting entities with a sufficient amount of time to complete and furnish accurate statements to responsible individuals and full-time employees, and to offer reporting entities under section 6055 a minimally burdensome option by which to furnish the required statement. The legal basis for defining minimum essential coverage is section 5000A(f)(1)(E), which provides the Secretary of the Treasury or her delegate (Secretary) with the authority to determine what types of health coverage constitute minimum essential coverage. The legal basis for the extended due date was originally set forth in the series of notices referenced in the Explanation of Provisions section above, under which the Treasury Department and the IRS extended the dates for furnishing statements to responsible individuals and full-time employees, providing that taxpayers that satisfy the furnishing requirement by the extended due date will not be subject to penalties under sections 6721 and 6722. Section 6724(a) provides that no penalty is imposed under section 6721 or 6722 if it is shown that the failure is due to reasonable cause and not to willful neglect. Section 7803(a)(2)(A) gives the

Commissioner the power to administer, manage, conduct, direct, and supervise the execution and application of internal revenue laws. That same legal basis applies for these proposed regulations. Additionally, §§1.6055-1(g)(4)(i)(B) and 301.6056-1(g)(1)(ii) provide the Secretary with the authority to provide extensions of time to furnish statements under sections 6055 and 6056. Regarding the form of the statement to be furnished, sections 6055(b)(1)(A) and 6056(b)(1) provide the Secretary with the authority to prescribe the form of the return that is the basis for the furnishing requirements in sections 6055(c) and 6056(c).

*Description and estimate (where feasible) of the number of small entities subject to the proposed rule.*

The proposed regulations apply to health insurance issuers, self-insured employers, government agencies, and other providers of minimum essential coverage required to furnish individual statements regarding such coverage under section 6055 and ALE members that are required to furnish information relating to health insurance that the ALE offers to its full-time employees under section 6056. An estimate of the number of small entities subject to the proposed regulations is not feasible because a correlation between small taxpayers and this type of reporting cannot be made. The proposed regulations affect all industries. Taxpayers using any NAICS code could be subject to the proposed regulations.

*Description of the projected reporting, recordkeeping, and related requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.*

As discussed in the Paperwork Reduction Act section above, these proposed regulations do not impose any reporting, recordkeeping, or similar requirements on any small entities.

*Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.*

The proposed regulations do not duplicate, overlap, or conflict with any Federal statutes or other rules.

*Description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact on small entities.*

The Treasury Department and the IRS have determined that, without a legislative change, there are no viable alternatives to the provisions in the proposed regulations that would enable reporting entities to continue to satisfy their reporting obligations with a lesser burden.

Accordingly, the Treasury Department and the IRS conclude that the provisions of the proposed regulations will most effectively promote sound tax administration. The revisions to the definition of what is not minimum essential coverage in §1.5000A-2 will provide concrete advice to ensure that taxpayers can adequately determine whether they have minimum essential coverage. An automatic extension of time to furnish statements under proposed §§1.6055-1(g)(4)(i) and 301.6056-1(g)(1) will assist in timely and more accurate reporting. Last, the additional electronic manner of furnishing a statement in proposed §1.6055-1(g)(4)(ii)(B), at a time when the shared responsibility payment amount is zero, will help reporting entities reduce costs, while still satisfying

their statutory reporting obligations. Accordingly, implementation of these proposed regulations will increase tax compliance by providing definitive guidance and will allow reporting entities the time needed to furnish timely and accurate statements, with minimal production and distribution burden regarding the furnishing.

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

#### IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million (updated annually for inflation). This proposed rule does not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

#### V. Executive Order 13132: Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on

state and local governments or preempt state law within the meaning of the Executive Order.

### **Comments and Requests for Public Hearing**

Before these proposed regulations or the 2016 proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the “**ADDRESSES**” section. The Treasury Department and the IRS request comments on all aspects of these proposed regulations, as well as all aspects of the 2016 proposed regulations. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at [www.regulations.gov](http://www.regulations.gov) or upon request. All comments, including comments on the 2016 proposed regulations, should reference REG-109128-21.

A public hearing will be scheduled if requested in writing by any person who timely submits written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**. Announcement 2020-4, 2020-17 I.R.B. 1 (Apr. 20, 2020), provides that until further notice, public hearings conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

### **Drafting Information**

The principal author of these proposed regulations is Gerald Semasek, Office of Associate Chief Counsel (Income Tax and Accounting). Other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects**

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes,  
Penalties, reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

**PART 1—INCOME TAXES**

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 1.5000A-2 is amended by:

1. Deleting the word “and” after paragraph (b)(2)(vii);
2. Changing the period to a semi-colon and adding the word “and” after paragraph (b)(2)(viii); and
3. Adding paragraph (b)(2)(ix).

The amendments and addition read as follows:

§1.5000A-2 Minimum Essential Coverage.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(vii) Coverage under section 1079(a), 1086(c)(1), or 1086(d)(1) of title 10, U.S.C., that is solely limited to space available care in a facility of the uniformed services for individuals excluded from TRICARE coverage for care from private sector providers;

(viii) Coverage under section 1074a and 1074b of title 10, U.S.C., for an injury, illness, or disease incurred or aggravated in the line of duty for individuals who are not on active duty; and

(ix) Medicaid coverage limited to COVID-19 testing and diagnostic services provided under section 6004(a)(3) of the Families First Coronavirus Response Act, Pub. L. 116-127, 134 Stat. 178 (March 18, 2020).

Par. 3. Section 1.5000A-5 is amended by revising paragraph (c) to read as follows:

§1.5000A-5 Administration and procedure.

\* \* \* \* \*

(c) Applicability date. Except as otherwise provided in this paragraph (c), this section and §1.5000A-1 through 1.5000A-4 apply for months beginning after December 31, 2013. Section 1.5000A-2(b)(2)(ix) applies for months beginning after September 28, 2020.

Par. 4. Section 1.6055-1 is amended by:

1. Revising the first sentence of paragraph (g)(1);
2. Revising paragraph (g)(4)(i);
3. Revising paragraph (g)(4)(ii); and
4. Revising paragraph (j).

The revisions and addition read as follows:

§1.6055-1 Information reporting for minimum essential coverage.

\* \* \* \* \*

(g) Statements to be furnished to responsible individuals—(1) In general. Except



as otherwise provided in paragraph (g)(4)(ii)(B) of this section, every person required to file a return under this section must furnish to the responsible individual identified on the return a written statement. \* \* \*

\* \* \* \* \*

(4) Time and manner for furnishing statements--(i) Time for furnishing—Except as otherwise provided in this paragraph (g)(4)(i), a reporting entity must furnish the statements required under paragraph (g)(1) of this section on or before January 31 of the year following the calendar year in which the minimum essential coverage is provided. Reporting entities are granted an automatic extension of time not exceeding 30 days in which to furnish these statements.

(ii) Manner of furnishing—(A) In general. Except as otherwise provided in paragraph (g)(4)(ii)(B) of this section, if mailed, the statement must be sent to the responsible individual's last known permanent address or, if no permanent address is known, to the individual's temporary address. For purposes of this paragraph (g)(4)(ii)(A), a reporting entity's first class mailing to the last known permanent address, or if no permanent address is known, the temporary address, discharges the requirement to furnish the statement. A reporting entity may furnish the statement electronically if the requirements of §1.6055-2 are satisfied.

(B) Alternative manner of furnishing. A reporting entity shall be treated as furnishing the statement in a timely manner under this paragraph (g)(4) if the shared responsibility payment amount under section 5000A(c) for the calendar year in which the minimum essential coverage is provided is zero and the reporting entity satisfies the requirements in this paragraph (g)(4)(ii)(B). If the reporting entity is an applicable large

employer member that sponsors a self-insured group health plan and makes a return in accordance with paragraph (f)(2)(i) of this section related to that plan, the applicable large employer member may use the alternative manner of furnishing described in this paragraph (g)(4)(ii)(B) for statements to non-full-time employees and non-employees who are enrolled in the applicable large employer's self-insured group health plan. A reporting entity may use the alternative manner of furnishing described in this paragraph (g)(4)(ii)(B) only if the reporting entity:

(1) Provides clear and conspicuous notice, in a location on its website that is reasonably accessible to all responsible individuals, stating that responsible individuals may receive a copy of their statement upon request. The notice must include an email address, a physical address to which a request for a statement may be sent, and a telephone number that responsible individuals may use to contact the reporting entity with any questions. A notice posted on a reporting entity's website will satisfy the requirements of this paragraph (g)(4)(ii)(B)(1) if it is written in plain, non-technical terms and with letters of a font size large enough, including any visual clues or graphical figures, to call to a viewer's attention that the information pertains to tax statements reporting that individuals had health coverage. For example, a reporting entity's website provides a clear and conspicuous notice if it (1) includes a statement on the main page - or a link on the main page, reading "Tax Information", to a secondary page that includes a statement -- in capital letters, "IMPORTANT HEALTH COVERAGE TAX DOCUMENTS"; (2) explains how responsible individuals may request a copy of Form 1095-B, Health Coverage, (or, for an applicable large employer member that sponsors a self-insured group health plan and makes a return in accordance with paragraph (f)(2)(i)

of this section, explains how non-full-time employees and non-employees who are enrolled in the plan may request a copy of Form 1095-C, Employer-Provided Health Insurance Offer and Coverage); and (3) includes the reporting entity's email address, mailing address, and telephone number;

(2) Retains the notice in the same location on its website through October 15 of the year following the calendar year to which the statements relate (or the first business day after October 15, if October 15 falls on a Saturday, Sunday or legal holiday); and

(3) Furnishes the statement to a requesting responsible individual within 30 days of the date the request is received. To satisfy the requirement of this paragraph (g)(4)(ii)(B)(3), a reporting entity may furnish the statement electronically pursuant to §1.6055-2(a)(2) through (a)(6).

\* \* \* \* \*

(j) Applicability date. Except as otherwise provided in this paragraph (j), this section applies for calendar years beginning after December 31, 2014. Paragraphs (g)(1), (g)(4)(i), and (g)(4)(ii) of this section apply for calendar years beginning after December 31, 2021, but reporting entities may choose to apply paragraphs (g)(1), (g)(4)(i), and (g)(4)(ii) of this section for calendar years beginning after December 31, 2020. Except as otherwise provided in this paragraph (j), paragraph (g)(4), as contained in 26 CFR part 1 edition revised as of April 1, 2021, applies to calendar years ending after December 31, 2014 and beginning before January 1, 2022.

#### Part 301—PROCEDURE AND ADMINISTRATION

Par. 5. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

\* \* \* \* \*

Par. 6. Section 301.6056-1 is amended by:

1. Revising paragraph (g)(1); and
2. Revising paragraph (m).

The revisions read as follows:

§301.6056-1 Rules relating to reporting by applicable large employers on health insurance coverage offered under employer-sponsored plans—

\* \* \* \* \*

(g) Time and manner of furnishing statements--(1) Time for furnishing--Except as otherwise provided in this paragraph (g)(1), each statement required by this section for a calendar year must be furnished to a full-time employee on or before January 31 of the year succeeding the calendar year in accordance with applicable Internal Revenue Service procedures and instructions. Applicable large employers are granted an automatic extension of time not exceeding 30 days in which to furnish these statements.

\* \* \* \* \*

(m) Applicability date. Except as otherwise provided in this paragraph (m), this section applies for calendar years beginning after December 31, 2014. Paragraph (g)(1) of this section applies for calendar years beginning after December 31, 2021, but applicable large employers may choose to apply paragraph (g)(1) of this section for calendar years beginning after December 31, 2020. Except as otherwise provided in

this paragraph (m), paragraph (g)(1), as contained in 26 CFR part 1 edition revised as of April 1, 2021, applies to calendar years ending after December 31, 2014 and beginning before January 1, 2022.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.