2018 IRS Reporting Tip 1
Reporting Offers of COBRA Coverage

The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires employers to offer covered employees who lose their health benefits due to a qualifying event to continue group health benefits for a limited time at the employee's own cost. COBRA provisions are found in the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code (Code), and the Public Health Service Act (PHSA). Employers with 20 or more employees and group health plans are subject to COBRA provisions. Most governmental plans, church plans, and certain plans of Indian tribal governments are exempt from COBRA. Employers should always consult with counsel about state continuation laws that are similar to COBRA and apply to small employers.

Beginning in 2015, to comply with the Patient Protection and Affordable Care Act (ACA), large employers must offer their full-time employees health coverage, or pay one of two employer shared responsibility (play or pay) penalties. An employer is considered large, or is an applicable large employer (ALE), if it has 50 or more full-time or full-time equivalent employees. Full-time employees are employees that average 30 hours a week or more. There are two methods that an ALE can use to determine which employees must be offered coverage to avoid penalties: the monthly method, and the measurement and look-back method. ALEs are also required to report on coverage that they did or did not provide.

Reporting

Under the ACA, individuals are required to have health insurance and ALEs are required to offer health benefits to their full-time employees. In order for the IRS to verify that (1) individuals have the required minimum essential coverage, (2) individuals who request premium tax credits are entitled to them, and (3) ALEs are meeting their shared responsibility (play or pay) obligations, employers with 50 or more full-time or full-time equivalent employees and insurers are required to report on the health coverage they offer.

Employers should note that the guidance provided from the IRS on reporting offers of COBRA coverage has changed multiple times since 2014. Employers should review the most current IRS instructions, guides, and FAQs to ensure they are following the most up-to-date instructions. Employers that are part of a controlled group should consider selecting a uniform method of reporting offers of COBRA coverage across all members of the controlled group. Employers should always consult their tax professional or tax attorney for situation-specific guidance on the codes to use for a particular employee. The decision to use a particular code or codes might be influenced by factors not contained within example situations.

For a large fully insured health plan or self-funded plan, if COBRA is offered to a former employee upon termination, it is not reported as an offer of coverage. On Line 14 of Form 1095-C, employers should use code 1H (no offer of coverage) for any month in which the COBRA offer applies, and on Line 16 the employer should use codes 2A and 2B where appropriate. For former employees of fully insured employers, the former employee will receive a Form 1095-B from the carrier on the coverage they enroll in. The former employees of a self-funded employer will have their actual coverage reported in Part III of the 1095-C.

Example: An applicable large employer has fully insured coverage that costs $104.99 for the lowest cost employee-only coverage. COBRA is offered to an employee who terminates employment on February 10.

Part II Employee Offer and Coverage

	All 12 Months	Jan	Feb	Mar	Apr
14 Offer of Coverage (enter required code)		1E	1H	1H	1H
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	$	$ 104.99	$	$	$
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)		2C	2B	2A	2A

If a self-funded employer offers COBRA coverage to an individual who was not an employee for any month during the year (for instance, a retiree), and the employer wishes to use Form 1095-C to report the coverage, it can use code 1G on Line 14 for all 12 months, and code 2C to indicate enrollment; or in the alternative, it can issue the former employee a Form 1095-B. Code 1G cannot be used to report on anyone who was an employee for one or more months during the year.

If an employee is offered COBRA due to loss of eligibility (for instance, due to a reduction in hours for an employer that uses the monthly method) the employee's coverage is reported in the same way and with the same code as an offer of coverage to any other active employee. This means that on Form 1095-C, Line 14, an employer would use the appropriate offer code, on Line 15 it would report the cost of COBRA coverage (minus the 2% administration fee) for employee-only coverage, and on Line 16 it would use the appropriate 2-Series code for each month, most likely indicating the employee enrolled in the coverage (2C) or that the employee is not a full-time employee (2B). Employers are not required to meet the affordability requirements of the ACA for part-time employees. Employers using the measurement and look-back method for determining employee eligibility are obligated to meet affordability requirements through the applicable stability period.

Example: An applicable large employer that uses the monthly measurement method (not the measurement and look-back method) has fully insured coverage that costs $104.99 for the lowest cost employee-only coverage. The cost of COBRA minus the 2% administration fee is $343.10. COBRA is offered to an ongoing employee who did not average 30 hours a week or more in the month of January. The employee enrolls in the COBRA coverage. If the individual chose not to enroll, code 2B is the likely alternative to code 2C.

Part II Employee Offer and Coverage

	All 12 Months	Jan	Feb	Mar	Apr
14 Offer of Coverage (enter required code)		1E	1E	1E	1E
15 Employee Share of Lowest Cost Monthly Premium, for Self-Only Minimum Value Coverage	$	$ 104.99	$ 343.10	$ 343.10	$ 343.10
16 Applicable Section 4980H Safe Harbor (enter code, if applicable)		2C	2C	2C	2C

If a self-funded employer has to report COBRA continuation coverage of a spouse or dependents who separately elected coverage (for example, the prior spouse of a now-divorced employee) the employer can report the coverage of each non-employee spouse or dependent who separately elects COBRA coverage on Form 1095-B, or on Part III of Form 1095-C.

State Continuation

If an employer offers coverage to a terminated employee or to an employee who loses eligibility on the group plan under a state's continuing coverage laws, that offer should be reported in the same manner as COBRA coverage.

1/17/2018