

**DESCRIPTION OF H.R. 3797,  
THE “PAPERWORK BURDEN REDUCTION ACT”**

Scheduled for Markup  
by the  
HOUSE COMMITTEE ON WAYS AND MEANS  
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Prepared by the Staff  
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JOINT COMMITTEE ON TAXATION



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## INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup of H.R. 3797, the “Paperwork Burden Reduction Act.” This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 3797, the “Paperwork Burden Reduction Act”* (JCX-14-23), June 5, 2023. This document can also be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov). All section references in the document are to the Internal Revenue Code of 1986, as amended (the “Code”), unless otherwise stated.

## **A. Alternative Manner of Furnishing Certain Health Insurance Coverage Statements to Individuals**

### **Present Law**

#### **Minimum essential coverage**

The Patient Protection and Affordable Care Act (“PPACA”)<sup>2</sup> required individuals to have minimum essential health insurance coverage,<sup>3</sup> to qualify for an exemption from the coverage requirements, or to make a shared responsibility payment for failure to maintain the coverage (commonly referred to as the “individual mandate”).<sup>4</sup> However, beginning in 2019, the amount of the shared responsibility payment was reduced to zero.<sup>5</sup>

Certain employers must offer minimum essential coverage to employees or must pay a penalty. Specifically, an applicable large employer that does not offer minimum essential coverage for all of its full-time employees, that offers minimum essential coverage that is unaffordable, or that offers minimum essential coverage that consists of a plan under which the plan’s share of the total allowed cost of benefits is less than 60 percent, is required to pay a penalty if any full-time employee is certified to the employer as having purchased health insurance through a State Exchange with respect to which a tax credit or cost-sharing reduction is allowed or paid to the employee.<sup>6</sup> An applicable large employer is generally defined, with respect to a calendar year, as an employer who employed an average of at least 50 full-time employees on business days during the preceding calendar year.<sup>7</sup>

#### **Reporting of health insurance coverage (Form 1095-B)**

A person (including a health insurance issuer or an employer that self-insures) that provides minimum essential coverage to any individual during a calendar year (“reporting entity”) must file an information return and transmittal reporting certain health insurance coverage information and must furnish statements to responsible individuals on forms prescribed

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<sup>2</sup> Pub. L. No. 111-148, March 23, 2010, as amended by the Health Care and Education Reconciliation Act of 2010, March 30, 2010, Pub. L. No. 111-152.

<sup>3</sup> As defined under section 5000A(f).

<sup>4</sup> Sec. 5000A. If an individual is a dependent, as defined in section 152, of another taxpayer, the other taxpayer is liable for any tax for failure to maintain the required coverage with respect to the individual. Sec. 5000A(b)(3)(A).

<sup>5</sup> Secs. 5000A(c)(2)(B)(iii); (c)(3)(A). These changes were effective for months beginning after December 31, 2018. Pub. L. No. 115-97, secs. 11081(a)(1)-(2), July 20, 2018.

<sup>6</sup> Sec. 4980H(a), (b); sec. 36B(c)(2)(C).

<sup>7</sup> Sec. 4980H(c)(2). An employer is not considered to employ more than 50 full-time employees if (1) the employer’s workforce exceeds 50 full-time employees for 120 days or fewer during the calendar year, and (2) the employees in excess of 50 employed during such 120-day period were seasonal workers. All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 are treated as one employer.

by the Internal Revenue Service (“IRS”).<sup>8</sup> For this purpose, the responsible individual includes a primary insured, employee, former employee, uniformed services sponsor, parent, or other related person named on an application who enrolls one or more individuals, including him or herself, in minimum essential coverage.<sup>9</sup> In the case of coverage provided by a governmental unit, or by any agency or instrumentality thereof, the reporting requirement applies to the officer or employee who enters into the agreement to provide the health insurance coverage (or their designee).<sup>10</sup>

The information required to be reported includes: (1) the name, address, and taxpayer identification number of the responsible individual (unless the individual is not enrolled in the coverage), and the name and taxpayer identification number of each other individual obtaining coverage under the policy; (2) the dates during which the individual was covered under the policy during the calendar year; (3) whether the coverage is a qualified health plan offered through an Exchange;<sup>11</sup> (4) the amount of any premium tax credit<sup>12</sup> or cost-sharing reduction received by the individual with respect to such coverage;<sup>13</sup> and (5) such other information as the Secretary of Treasury (“Secretary”) may require.<sup>14</sup>

To the extent health insurance coverage is provided through an employer-sponsored group health plan, the reporting entity is also required to report the name, address and employer identification number of the employer, the portion of the premium, if any, required to be paid by the employer, and any other information the Secretary may require to administer the tax credit for eligible small employers.<sup>15</sup>

#### Time and manner of reporting, in general

The reporting entity is required to report the above information, along with the name, address and contact information of the reporting insurer, to the IRS on or before February 28 (March 31 if filing electronically) of the year following the calendar year to which the information relates and to furnish the information in a written statement to the responsible individual on or before January 31 of the year following the calendar year to which the statement

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<sup>8</sup> Sec. 6055; Treas. Reg. sec. 1.6055-1(a).

<sup>9</sup> Treas. Reg. sec. 1.6055-1(b)(11).

<sup>10</sup> Sec. 6055(d).

<sup>11</sup> An Exchange established under section 1311 of the PPACA.

<sup>12</sup> Sec. 36B.

<sup>13</sup> The amount of any cost-sharing reduction under section 1402 of the PPACA.

<sup>14</sup> Sec. 6055(b). See Treas. Reg. sec. 1.6055-1(d), (e).

<sup>15</sup> Sec. 6055(b)(2). The tax credit is under section 45R.

relates.<sup>16</sup> Reporting entities are permitted an automatic 30-day extension to provide the written statement to individuals.<sup>17</sup>

The IRS has generally designated Form 1094-B, *Transmittal of Health Coverage Information Returns*, and Form 1095-B, *Health Coverage*, for reporting entities to meet these requirements. However, an applicable large employer that offers coverage through a self-insured health plan generally reports this information using Part III of the Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, which is the form that is also used by applicable large employers—whether self-insured or not—for the separate requirement (described below) of reporting offers of health insurance coverage for their employees.<sup>18</sup>

A reporting entity that fails to comply with these reporting requirements is subject to the penalties for failure to file an information return and failure to furnish payee statements, respectively.<sup>19</sup>

#### Alternative manner of furnishing

Under Treasury regulations, instead of furnishing a written statement to a responsible individual, reporting entities are permitted to provide a notice on their website, provided that certain requirements are met, stating that responsible individuals may receive a copy of their statement upon request.<sup>20</sup> The notice must be clear and conspicuous, and in a location on the website that is reasonably accessible to all responsible individuals. It 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 insurer with any questions. A notice satisfies these requirements 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 website provides a clear and conspicuous notice if it 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; and includes the reporting entity’s email address, mailing address, and telephone number. This alternative manner of furnishing the statement is also available to a self-insured applicable large

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<sup>16</sup> Treas. Reg. sec. 1.6055-1(f)(1), (g)(4)(i).

<sup>17</sup> Treas. Reg. sec. 1.6055-1(g)(4)(i).

<sup>18</sup> Treas. Reg. sec. 1.6055-1(f)(2). Thus, an employer with a self-insured health plan may use the Form 1095-C to satisfy both the requirements of sections 6055 (relating to insurer reporting of health insurance coverage) and 6056 (relating to applicable large employer reporting of health insurance coverage offered to employees).

<sup>19</sup> Secs. 6721, 6722; Treas. Reg. sec. 1.6055-1(h).

<sup>20</sup> Treas. Reg. sec. 1.6055-1(g)(4)(ii)(B). The alternative manner of furnishing is only available for a calendar year for which the individual shared responsibility payment is zero (2019 or later).

employer that uses the Form 1095-C to meet these reporting requirements, but only with respect to non-full-time employees and non-employees who are enrolled in the group health plan.<sup>21</sup>

The reporting entity also must post the notice on its website no later than the date that the statements are otherwise required to be furnished to individuals, and must retain the notice in the same location on its website through October 15 of the year following the calendar year to which the statements relate.<sup>22</sup> Lastly, the reporting entity must furnish the statement to a requesting responsible individual within 30 days of the date the request is received.<sup>23</sup>

### **Reporting by applicable large employers on health insurance coverage (Form 1095-C)**

An applicable large employer must file an information return and transmittal reporting certain health insurance coverage information, and furnish statements to full-time employees, on forms prescribed by the IRS.<sup>24</sup> In the case of coverage provided by a governmental unit, or any agency or instrumentality thereof, the reporting requirement applies to the person or employee appropriately designated for purposes of making the returns and statements required by the provision.<sup>25</sup>

The information required to be reported includes: (1) the name, address and employer identification number of the employer; (2) a certification as to whether the employer offers its full-time employees and their dependents the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan;<sup>26</sup> (3) if the employer so certifies, (i) the length of any waiting period with respect to such coverage, (ii) the months coverage was available, (iii) the monthly premium for the lowest cost option in each of the enrollment categories, and (iv) the employer's share of the total allowed costs of benefits provided; (4) the number of full-time employees of the employer for each month during the calendar year; (5) the name, address and taxpayer identification number of each full-time employee employed by the employer during the calendar year and the number of months, if any, during which the employee (and any dependents) was covered under a plan sponsored by the employer during the calendar year; and (6) such other information as the Secretary may require.<sup>27</sup>

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<sup>21</sup> Treas. Reg. sec. 1.6055-1(g)(4)(ii)(B).

<sup>22</sup> Or the first business day after October 15, if October 15 falls on a Saturday, Sunday or legal holiday.

<sup>23</sup> Treas. Reg. sec. 1.6055-1(g)(4)(ii)(B). The reporting entity may furnish the statement electronically pursuant to Treas. Reg. secs. 1.6055-2(a)(2) through (6).

<sup>24</sup> Sec. 6056(a).

<sup>25</sup> Sec. 6056(e).

<sup>26</sup> As defined in section 5000A(f)(2).

<sup>27</sup> Sec. 6056(b). See Treas. Reg. sec. 301.6056-1.

The employer is required to file the return and transmittal on or before February 28 (March 31 if filing electronically) of the year succeeding the calendar year to which it relates.<sup>28</sup> The employer must also provide a written statement to each full-time employee named in the return that includes the information required to be reported with respect to that employee, along with the name, address, and contact information of the reporting employer, on or before January 31 of the year following the calendar year for which the return is required to be filed.<sup>29</sup> Employers are permitted an automatic 30-day extension to provide the written statement to individuals.<sup>30</sup>

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*, for employers to meet these requirements.

An employer that fails to comply with these reporting requirements is subject to the penalties for failure to file an information return and failure to furnish payee statements, respectively.<sup>31</sup>

Treasury regulations do not provide for an alternative manner of furnishing the written statement upon the request of the individual.

### **Description of Proposal**

#### **Reporting of health insurance coverage (Form 1095-B)**

The proposal provides that any person required to make a return on account of providing minimum essential coverage to an individual is treated as timely furnishing the required written statement to an individual if (1) the person provides clear, conspicuous, and accessible notice (at such time and in such manner as the Secretary may provide) that the individual may request a copy of the statement, and (2) on request of any such individual, the person furnishes a copy of the statement to the individual by the later of (i) January 31 of the year following the calendar year for which the return was required to be made, or (ii) 30 days after the date of such request.

Thus, the proposal codifies the rules under Treasury regulations that permit an alternative manner of furnishing the written statement (the Form 1095-B, or in certain cases of self-insured applicable large employers, the Form 1095-C) by furnishing the statement upon the request of the individual.

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<sup>28</sup> Treas. Reg. sec. 301.6056-1(e).

<sup>29</sup> Sec. 6056(c).

<sup>30</sup> Treas. Reg. sec. 301.6056-1(g)(1).

<sup>31</sup> Secs. 6721, 6722; Treas. Reg. sec. 301.6056-1(i).



## **Reporting by applicable large employers on health insurance coverage (Form 1095-C)**

The proposal provides that the alternative manner of furnishing a written statement also applies to the required written statement (the Form 1095-C) that applicable large employers must furnish to full-time employees. Under the proposal, an applicable large employer is treated as timely furnishing the required written statement on health insurance coverage to a full-time employee if (1) the employer provides clear, conspicuous, and accessible notice (at such time and in such manner as the Secretary may provide) that the individual may request a copy of the statement, and (2) on request of any such individual, the employer furnishes a copy of the statement to the individual by the later of (i) January 31 of the year following the calendar year for which the return was required to be made, or (ii) 30 days after the date of such request.

### **Effective Date**

The proposal is effective for statements with respect to returns for calendar years after 2023.

## **B. Estimated Revenue Effects of the Proposal**

The proposal is estimated to have no effect on Federal fiscal year budget receipts for the period 2023-2033.