



November 20, 2015

Re: **IATSE National Health and Welfare Fund**
Affordable Care Act: Employer Reporting Requirements & Data Request Instructions

Dear Contributing Employer and/or Payroll Company:

We are writing regarding the employer reporting requirements under the Affordable Care Act (“ACA”), which may apply to you.

Employer Reporting Requirements under the ACA

As you may be aware, beginning in 2016, the ACA requires “applicable large employers” (ALEs) (generally, employers with at least 50 full-time employees or full-time equivalents, or employers that are part of a controlled group that is an ALE) to report to the IRS and to full-time employees information regarding the health coverage that was offered to such employees in the prior year. The reporting (on IRS Forms 1094-C and 1095-C) assists the IRS in determining: (i) whether the employer owes a “shared responsibility” penalty under the ACA, and (ii) whether employees and their dependents are eligible for premium tax credits if they purchased health coverage through the ACA Marketplace (also known as the Exchange).

ALEs must provide a Form 1095-C to individuals who were employed as full-time employees in 2015 by *February 1, 2016* and must file the Form 1095-Cs with the IRS (along with a Form 1094-C) by *February 29, 2016 (or March 31, 2016 if filing electronically)*. Multiemployer plans like the IATSE National Health & Welfare Fund (“the Fund”) also have a separate reporting obligation with respect to covered Fund participants, on IRS Forms 1094-B and 1095-B. Note that according to the IRS Instructions for Form 1095-C, employers are *not* required to complete Part III of Form 1095-C with respect to employees for whom coverage is provided under a self-insured multiemployer plan like the Fund. Accordingly, employers will not need the dependent coverage information required by Part III.

Simplified Reporting for Certain Employers

The IRS has recently issued revised instructions for the Forms 1095-C that may simplify the reporting for certain employers. At least for 2015 reporting, employers that meet the requirements for the “*Safe Harbor*” for *Employers Contributing to Multiemployer Plans* (“Safe Harbor”) do not need to report employee-specific information regarding offers of coverage, cost of coverage and enrollment for those employees covered by the Safe Harbor. To meet the requirements of the Safe Harbor, the employer must be obligated by a collective bargaining agreement (or participation agreement) to contribute to a multiemployer plan that meets the following requirements:

- the multiemployer plan offers coverage for eligible participants' dependents, *which the Fund does*;
- the multiemployer plan provides minimum essential, minimum value coverage, *which the Fund does*; and
- the coverage through the multiemployer plan is **affordable** under the rules of the ACA, ***which is the case for Plan A coverage, but not for everyone in Plan C (as explained in more detail below).***

Based on the most recent instructions for Form 1095-C, employers that contribute to the Fund and meet the Safe Harbor (Plan A) for an employee for any month(s) will not need any employee-specific information from the Fund about the health coverage offered to those employees for those months. According to the instructions, those employers can instead fill in Code 1H on line 14 and Code 2E on line 16 for such employees for the applicable month(s). **Since Plan A coverage is always affordable (i.e., there is no employee-cost), employers obligated to contribute to the Fund for Plan A for an employee meet the Safe Harbor and will not need to request any information from the Fund for reporting on those employees.**

* **Affordability for Plan C:** As noted above, Plan C coverage may or may not be affordable for an employee, since the amount the employee pays for coverage varies based on the amount of employer contributions available in their Plan C CAPP Account at a given time. "Affordability" for ACA purposes is determined based on the lowest cost, minimum value single coverage under Plan C, which is Plan C-4, at a cost of \$902 per quarter in 2015. (The equivalent of \$300.67 per month). Based on the amount of contributions made to the Fund on behalf of an employee and the ACA tests for affordability (described in the Fund's August 8, 2013 letter, copy enclosed), employers may be able to determine themselves whether that coverage was affordable for an employee for the applicable months. **If the employer can determine that the coverage was affordable for an employee for a month(s), the employer does not need to request any information from the Fund with respect to that employee/month because the requirements of the simplified reporting under the Safe Harbor are met.** (Please note that, at the time the Fund's August 8, 2013 letter was written, Plan C-3 was the lowest cost option available under the Fund. However, Plan C-4 was introduced as the lowest cost option for 2015 and, therefore, any affordability calculations for 2015 should be based on the cost of C-4 single (\$902 per quarter)).

For employers that contribute to Plan C and are not able to determine whether coverage was affordable based on the information that they have, instructions on how to request coverage and enrollment information from the Fund for the 1095-C reporting is below.

How to Request Information Needed from the Fund for ACA Reporting

ALEs that cannot verify that the coverage for which they are contributing to the Fund is "affordable" will need information relating to the coverage offered and provided to their employees. To assist those employers, we are establishing a process (via the Fund's website www.iatsenbf.org) for providing employers with information that will help them to complete Part II of IRS Form 1095-C ("Employee Offer and Coverage"). A contributing employer will be required to complete a form via the Fund's secure website certifying its status as an ALE and upload, or enter directly into the site, a list of the employees for whom it requires information for reporting purposes. The employees will have to be identified solely by Social Security Number.

The Fund will provide ALEs with information for each listed employee in the Fund's records, indicating on a month-by-month basis: (i) whether minimum value/minimum essential health coverage was offered to the employee (and his or her spouse and children up to age 26), (ii) the amount the employee was required to pay for the lowest cost single coverage (for those eligible for Health Plan C), and (iii) whether the employee enrolled in the offered coverage.

Please note that the Fund is able to determine whether coverage is affordable for an employee under the ACA's Federal Poverty Line safe harbor test. Accordingly, if you request information from the Fund for an employee for a month for which the Fund has determined the employee was offered affordable coverage under this test, no information will be provided to you regarding the offer and coverage for that employee. Instead, there will be an "affordability" box checked for that employee for that month. (The affordability box will be checked for any month that an employee was offered Plan A coverage or was offered Plan C coverage that was affordable based on the Federal Poverty Line safe harbor and the amount of employer contributions available to that employee to cover the cost of coverage for that month). Due to the varied nature of employment covered by the Fund, an employee may have the affordability box checked for some months, but not for other months. Also, if no information is supplied by the Fund, and the affordability box is not checked, then that means that the Fund has no information indicating that the individual is eligible for any coverage from the Fund for that month.

ALEs that submit requests for information will receive an email from the Fund when the information is ready for viewing and downloading. We anticipate that employer requests will be processed within five (5) business days, but in most cases sooner, of receipt of the completed form and employee list. (ALEs that are unable to submit their request via the website may submit a hardcopy request to the Fund Office, and the information will be provided back to the employer via the website. However, such hardcopy requests will require up to an additional 10 business days to be processed (total of up to 15 business days from the date the information is received by the Fund). Depending on the volume of such hardcopy requests, the Fund may not be able to respond by the February 1, 2016 deadline).

Important Deadlines for Requesting Information from the Fund for ACA Reporting

Since the IRS requires employers to report on health coverage offered/provided for *every month* in the calendar year, employers will be seeking information from the Fund through December 2015. ***However, employers are encouraged to submit requests for information with respect to portions of the year earlier than the end of the year, in order to begin compiling the relevant information and completing the required forms.*** The Fund will generally know enrollment information for the remainder of 2015 by November 1, 2015. ***This letter represents the Fund's official notice that this feature of the website is now live and ready to accept your requests.***

In addition, in light of the **February 1, 2016 deadline** for employers to provide Form 1095-Cs to their full-time employees, the Fund will require that employers must submit their requests via the website ***no later than January 25, 2016***. Paper requests must be received by January 18, 2016. **If an employer does not submit its request by this deadline, we will assume that the employer is not an ALE or that it did not contribute to the Fund for any full-time employees with respect to whom this information would be required for 2015 and, therefore, we will not provide the information.** If the Fund receives a request after the deadline, the information will be provided, but we cannot commit to providing it before February 1, 2016.

It is anticipated that the Fund will continue this (or a similar) process on an annual basis, subject to any changes necessitated by updated ACA guidance or otherwise.

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The information contained in this letter is being provided as a courtesy and does not constitute legal or tax advice. This information is based on current available guidance and could be affected or revised based on subsequent guidance. We encourage employers to consult with their advisors regarding their responsibilities under the ACA. For further information about the ACA employer reporting requirements, go to <http://www.irs.gov/Affordable-Care-Act/Employers>.

Sincerely

A handwritten signature in black ink, appearing to read "Anne J. Zeisler", with a stylized flourish at the end.

Anne J. Zeisler
Executive Director

Enclosure (August 8, 2013 letter)



August 8, 2013
Updated June 10, 2015

Re: Patient Protection and Affordable Care Act

Dear Contributing Employer,

UPDATED NOTE TO EMPLOYERS

We have received or if you are preparing to request information about the Health & Welfare Fund in connection with the required ACA employer 2016 reporting for the 2015 coverage year (IRS Forms 1094-C and 1095-C). The letter below, which initially was sent to contributing employers in August 2013 and which resides on the Fund's website, www.iatsenbf.org, answers the questions posed in your request. In addition, please be advised that, in order to further assist employers in complying with their ACA reporting obligations, we are working on a web-based solution (via the Fund's secure website) for processing employer requests for information with respect to employees who participate in the Fund. This process will require contributing employers to complete and submit a form via the Fund's website in which the employer certifies its status as an "applicable large employer" for ACA purposes and to upload a list of the full-time employees on whose behalf it was obligated to contribute to the Fund. Further details about this process will be provided within the next few months.

We have received many inquiries from employers that contribute to the I.A.T.S.E. National Health and Welfare Fund (the "Fund") asking about compliance with the Patient Protection and Affordable Care Act (called the "ACA" in this memo). In response to those inquiries, we are providing this letter that includes general information about the Fund's status with regard to various provisions of the ACA in order to assist contributing employers in their compliance with certain provisions of the ACA with respect to employees for whom they contribute to the Fund. Although the Treasury Department recently announced that the employer shared responsibility payments and reporting obligations will not apply until 2015, the Department has stated that, once it publishes proposed rules implementing the employer information reporting requirements this summer, it will work with employers and strongly encourage voluntary employer implementation of those reporting requirements in 2014.

The Employer Shared Responsibility Penalty

The ACA imposes a penalty on large employers (50 or more full-time employees) that either do not offer health coverage to their full-time employees or offer coverage that is not of minimum value or is unaffordable. (As noted above, this penalty will not go into effect until 2015). Prior

to announcing the one-year delay in the employer penalties under the ACA, the government set forth a transition rule for 2014 for large employers participating in a multiemployer plan. If this rule is extended to 2015 (when the penalty goes into effect), employers will not owe any penalty for full-time employees for whom they contribute to a multiemployer plan, if the following three criteria are met:

- the employer is required to contribute to a multiemployer plan with respect to that employee pursuant to a collective bargaining agreement,
- coverage is offered under the multiemployer plan to the full-time employee and the employee's dependent children, and
- coverage offered to the full-time employee is affordable and provides minimum value.

Here is how the Fund measures up under the transition rule criteria:

- **The participation of contributing employers is generally pursuant to collective bargaining agreements.**
- **Once participants meet the Fund's eligibility requirements, coverage is offered to employees and their dependents, including children through the end of the year in which they turn age 26.**
- **The Fund's coverage meets the ACA minimum value standard.** In general, coverage is considered "minimum value" under the ACA if the plan covers at least 60% of eligible expenses. The Fund's outside actuarial consultant has determined that all of the Fund's medical plan options -- Plans A, C-1, C-2 and C-3 -- exceed the ACA minimum value standard.
- **The Fund is able to determine that, for the majority of Fund participants, the Fund's coverage is affordable.** In general, coverage is considered "affordable" under the ACA if the premium cost for participant-only coverage is not more than 9.5% of the participant's annual household income. For example, if a participant's annual household income is \$40,000, coverage is considered affordable if the participant-only coverage does not cost the participant more than \$3,800 a year. Since employers may not have information about their employees' annual household income (and the Fund does not have that information), the government developed three safe harbor tests that may be used for determining affordability under the ACA, which are discussed below.

With regard to the Fund's plans, for those participants covered under **Plan A**, the coverage is affordable (under all of the government tests) because participants are not required to pay *any* share of the premium cost for that coverage.

As for the various plan options available under the Fund's **Plan C**, the ACA measure of affordability is based on the cost of the lowest level of single coverage, which is C-3 Individual coverage, *regardless of which level of Plan C coverage the particular participant is actually enrolled in*. Plan C-3 Individual coverage will cost \$1,131 per quarter for the quarter beginning January 1, 2014. Accordingly, if a participant has enough money in his/her CAPP account to pay for that coverage, the coverage is affordable under the ACA (since there is no cost to the participant).

If a participant is required to pay for Plan C coverage (beyond what is in his CAPP account), the coverage will be considered affordable under the ACA if the participant is not required to pay more than 9.5% of his or her **household income** to supplement what is in his/her CAPP account in order to afford C-3 Individual coverage, again regardless of which Plan C option the participant is actually enrolled in. Alternatively, under the government safe harbor tests, C-3 Individual coverage will be considered affordable if the participant is not required to pay more than 9.5% of his or her **W-2 wages** reported to the employer for that coverage. Another government safe harbor provides that coverage is affordable if the participant's cost does not exceed 9.5 percent of the federal poverty level for a single individual (\$11,490 in 2013).

The third safe harbor, which is based on "rate of pay," provides that coverage is affordable if the employee's monthly contribution for coverage is no more than 9.5% of his hourly rate of pay multiplied by 130 hours.

Because of the nature of Plan C coverage (as well as the fact that the Fund does not have information regarding participants' household or W-2 income), employers will need to make their own determinations as to whether coverage is affordable for a particular employee in 2015, assuming this transition relief for multiemployer plans is extended beyond 2014. In many situations, it will be necessary to review the applicable contribution rate for the employee at issue. In this regard, as a benchmark, it may be helpful to know that, for full-time employees who work 30 or more hours per week, the Plan C-3 individual coverage, at \$4,524 per year currently, only costs about \$2.90 per hour.

As with all issues relating to ACA compliance, we urge all employers to discuss the application of the affordability tests with their advisors.

Remember, as explained above, employers will not be subject to the ACA's shared responsibility penalty in 2014. (More information about the delay can be found in IRS Notice 2013-45, available on www.irs.gov).

90-Day Waiting Period

Some employers have asked whether the Fund's eligibility rules comply with the 90-day waiting period requirements of the ACA. Section 2708 of the ACA provides that, for plan years beginning on or after January 1, 2014, a group health plan cannot apply a waiting period of more than 90 days for an employee or dependent who is otherwise eligible to enroll in the plan. The guidance defines a "waiting period" as the period of time that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of the plan can become effective. Being "otherwise eligible to enroll" means that the employee has met the plan's substantive eligibility conditions, such as being in an eligible job classification or achieving job-related licensure requirements specified in the plan's terms.

The Fund believes that the eligibility provisions of Plans A and C are consistent with the current applicable ACA guidance and requirements for the 90-day waiting period.

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There are numerous provisions of the ACA that apply to the Fund. The Fund's Board of Trustees is working diligently with the Fund's actuaries and Co-Counsel to assess the Fund's compliance with the law, accompanying regulations and interpretive guidance. However, we encourage employers to consult with their advisors regarding their own ACA compliance.

This notice is being provided as a courtesy to assist you and does not constitute legal or tax advice.

For further information about the ACA, the federal government has a website dedicated to ACA information -- www.healthcare.gov.

Sincerely

A handwritten signature in black ink, appearing to read "Anne J. Zeisler", written in a cursive style.

Anne J. Zeisler
Executive Director