

## IRS Again Delays Employer ACA Reporting

In welcome relief for many employers, the IRS has again automatically extended by 30 days – from January 31, 2018 to March 2, 2018 – the ACA reporting deadline for furnishing the Forms 1095-C and 1095-B to employees. However, the deadline for filing the forms with the IRS has not been extended, and remains April 2, 2018, for electronic submissions.

### Background

The ACA contained two significant additional reporting requirements to the Internal Revenue Code (Code) that are effective for medical coverage provided on or after January 1, 2015:

- Code Section 6055 reporting. Supports IRS enforcement of the individual mandate
- Code Section 6056 reporting. Supports IRS enforcement of the employer shared responsibility provisions (“employer mandate”) and the premium tax credits for coverage purchased in the public marketplace

The IRS developed two sets of information returns that employers and coverage providers use to satisfy their ACA reporting obligations – the 1095-B and 1095-C. Under regulations, employers and coverage providers must furnish Forms 1095-B and 1095-C to individuals for the 2017 calendar year by January 31, 2018. They must also submit these forms to the IRS (along with transmittal forms) by April 2, 2018, if filing electronically.

Earlier this year, the IRS released final forms and instructions for 2017 ACA reporting. The 2017 forms and instructions are largely unchanged from 2016. (See our [October 12, 2017 For Your Information.](#))

### Transition Relief

IRS has recognized – as they did in the past two years – that many employers, insurers, and other providers of health coverage need additional time to comply with the ACA reporting requirements. Therefore, on December 22,

#### With the repeal of the individual mandate penalties is ACA reporting still required?

Yes. The tax bill did not repeal the ACA reporting requirements. (See our [December 20, 2017 Legislate.](#)) While the tax bill signed by the president last week nullifies (zeros out) the individual mandate penalty beginning in 2019, the individual mandate penalty still remains in place for 2017 and 2018. In addition, the ACA reporting is used by the IRS to enforce the employer mandate and eligibility for premium subsidies to purchase ACA marketplace coverage, neither of which were changed by the tax bill.

2017, they issued [Notice 2018-06](#), which automatically extended the due date for furnishing Forms 1095-C and 1095-B to individuals by 30 days – from January 31, 2018, to March 2, 2018. With this automatic extension, the IRS will not grant any additional extensions beyond March 2, 2018.

The IRS did not extend the deadline for filing the statements, along with the 1094-C and 1094-B transmittal forms, to the IRS. That deadline remains April 2, 2018, if filing electronically.

**Comment.** While the date for filing with the IRS was not extended, filers can obtain an automatic 30-day extension by submitting Form 8809 (Application for Extension of Time to File Information Returns) by the due date for the ACA information returns. Form 8809 may be submitted on paper or electronically, and no explanation for the extension is required.

## Relief from Penalties

Notice 2018-06 also extends to the 2017 reporting the transition relief from penalties that was provided for past reporting. Reporting entities that can show they made a good faith effort to comply with the reporting requirements – both for furnishing statements to individuals and filing statements and returns with the IRS – will not be subject to penalties. The relief applies to missing and inaccurate taxpayer identification numbers, dates of birth and other required information. However, no relief is provided for reporting entities that do not make a good faith effort to comply or that fail to meet the furnishing and filing deadlines.

The notice does include a number of factors that the IRS will consider in determining good faith:

- Whether a reasonable effort was made to prepare for reporting, such as gathering and transmitting necessary data to an agent to prepare for data submission, or testing its ability to transmit information to the IRS
- The extent to which the employer or coverage provider is taking steps to ensure compliance with the 2018 reporting requirements

## Impact of Extension on Individual Taxpayers

Some individual taxpayers may be affected by this extension because the information included on the 1095-C or 1095-B is needed to complete their 2017 tax return. For example, individuals use the information on these forms to confirm that they (and their dependents) had minimum essential coverage during 2017. Similar to last year, the notice states that individuals who do not receive these forms before they file their tax return can rely on other information received from their employer when completing their returns. The IRS instructions for completing the 1095-C and 1095-B also confirm that these forms are not attached to the individual's tax return.

## In Closing

Despite the extension in the due date to March 2, 2018, for furnishing the 1095-C forms, employers should continue efforts to comply with the ACA reporting requirements.

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