

FYI[®] Alert

For Your Information[®]

Celebrating
40
years of FYI[®]

IRS Extends Deadline for 2018 Employer ACA Disclosures

The IRS has extended the ACA deadline for furnishing Forms 1095-C and 1095-B to individuals — from January 31, 2019 to March 4, 2019. The deadline for filing the forms with the IRS electronically has not been extended and is April 1, 2019.

Volume 41

Issue 94

December 3, 2018

Authors

Leslye Laderman, JD, LLM
Julia Zuckerman, JD

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 a calendar year by January 31 of the following calendar year. They must also submit these forms to the IRS (along with transmittal forms) by March 31 of the following calendar year, if filing electronically.

Earlier this year, the IRS released [final forms and instructions](#) for 2018 ACA reporting. The 2018 forms and instructions are largely unchanged from 2017.

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

Yes. The tax bill did not repeal the ACA reporting requirements. While it nullified (zeroed out) the individual mandate penalty beginning in 2019, the penalty still applies for 2018. In addition, ACA reporting is used by the IRS to enforce the employer mandate and to determine eligibility for premium subsidies to purchase ACA marketplace coverage, neither of which were changed by the tax bill.

Extension of deadline for furnishing forms

As in prior years, the IRS has recognized that many employers, insurers, and other providers of health coverage need additional time to comply with the ACA reporting requirements. (See our [December 27, 2017 FYI Alert](#)). On November 29, 2018, it issued [Notice 2018-94](#), which extends the due date for furnishing Forms 1095-C and 1095-B to individuals to March 4, 2019. With this automatic extension, the IRS will not grant any additional extensions beyond March 4, 2019.

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 is April 1, 2019, if filing electronically (the date is April 1, instead of March 31, because March 31 falls on a Sunday).

Buck 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 2018-94 also extends the relief from penalties provided for past reporting years to 2018 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 states that in determining good faith, the IRS will consider whether the employer or coverage provider made reasonable efforts to prepare for reporting information to individuals and the IRS, 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.

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 2018 tax return. For example, individuals use the information on these forms to confirm that they (and their dependents) had minimum essential coverage during 2018. Like 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.

Final 2018 forms and instructions

Links to the final 2018 forms and instructions are provided below:

Form 1095-C	<u>Employer-Provided Health Insurance Offer and Coverage</u>
Form 1094-C	<u>Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns</u>
1094-C and 1095-C Instructions	<u>Instructions for Forms 1094-C and 1095-C</u>
1095-B	<u>Health Coverage</u>
1094-B	<u>Transmittal of Health Coverage Information Returns</u>
1094-B and 1095-B Instructions	<u>Instructions for Forms 1094-B and 1095-B</u>

In closing

Despite the extension in the due date to March 4, 2019, for furnishing the 1095-C forms, employers should continue efforts to comply with the ACA reporting requirements.

Produced by the Knowledge Resource Center

The Knowledge Resource Center is responsible for national multi-practice compliance consulting, analysis and publications, government relations, research, surveys, training, and knowledge management. For more information, please contact your account executive.

You are welcome to distribute *FYI@* publications in their entirety.

This publication is for information only and does not constitute legal advice; consult with legal, tax and other advisors before applying this information to your specific situation.