

IRS Permanently Extends Deadlines for ACA Reports to Individuals

Employee Benefits & Executive Compensation Blog on January 4, 2023

On December 15, 2022, the Internal Revenue Service (“IRS”) published [final regulations](#) that make permanent certain relief and changes relating to the Affordable Care Act (“ACA”) reporting requirements. Specifically, the final regulations (1) include an automatic 30-day extension for providing Forms 1095-B and 1095-C to covered individuals and employees, which would otherwise be due on January 31; (2) allow an alternative method of furnishing the forms to certain individuals, and; (3) eliminate prior good faith relief from penalties, which the IRS has been granting reporting entities whose ACA Forms were incomplete or inaccurate. The final regulations are consistent with the proposed regulations, discussed in detail in our earlier blog [post](#).

The key changes made by the IRS in the final regulations are summarized below.

Extended Deadline to Issue Forms 1095-B and 1095-C (to Individuals)

The Internal Revenue Code (the “Code”) requires insurance companies, self-insured plans, and applicable large employers (“ALEs,” generally those with 50+ full-time or full-time equivalent employees) to file annual statements with the IRS (via Forms 1094-B and 1094-C for insurance providers and ALEs, respectively). These forms detail the extent that employees and covered individuals were offered “minimal essential coverage” as defined in the ACA and must be distributed to applicable individuals before the annual deadline. The final regulations permanently extend the deadline to 30 days after January 31 (the original deadline) so that the new deadline is March 2 (or March 1 for leap years), codifying the IRS’s prior practice of granting temporary 30-day extensions each year. As with the temporary extensions, the final regulations do not extend the deadline for reporting entities to file Forms 1094-B and 1094-C with the IRS.

Alternative Method of Furnishing Forms 1095-B and 1095-C

The final regulations also codify the prior temporary relief that allowed an alternative method of furnishing the required forms to certain individuals. Specifically, as long as the shared responsibility penalty remains at \$0, a reporting entity will be deemed to be in compliance with the requirement to furnish the forms if they post a “clear and conspicuous” notice on their website, through October 15 of the year following the calendar year to which the forms relate, stating that individuals may receive a copy of the form upon request. The website notice must include an explanation of how to obtain the form, as well as an email address, a physical address where the individual can send their request, and a telephone number where individuals can contact the reporting entity with questions. Additionally, the notice must be written in plain, non-technical terms and in a large enough font size to call to a viewer’s attention that the information pertains to tax statements reporting that individuals had health coverage. The reporting entity must furnish a copy of the form within 30 days of a request.

For ALEs, this relief only applies to the requirement to provide Forms 1095-C (and/or Forms 1095-B if the coverage is self-insured) to *non-full-time employees and non-employees* enrolled in the self-insured plan. Thus, ALEs will still have to furnish the applicable forms to full-time employees in the traditional manner.

For insurers and multiemployer plans, this relief applies to the requirement to provide Forms 1095-B to all covered individuals.

Transitional Good Faith Relief Eliminated

From 2015 through 2020, the IRS has provided reporting entities with transitional good faith relief from penalties for reporting incorrect or incomplete information on returns or individual statements if the entities could show that they made good faith efforts to comply with the requirements. Consistent with the discussion in the preamble to the proposed regulations, the final regulations state that this relief will not be extended for the tax year 2021 and beyond.

Takeaways

Reporting entities now have an additional 30 days to furnish the required forms to individuals each year (i.e., by March 2, 2023 for the 2022 forms).

Reporting entities should review their practices and consider the alternative method of furnishing the required forms, where permitted, while also keeping possible state law requirements in mind. Five states and Washington, D.C. have individual mandates and related information reporting requirements.

Finally, reporting entities should consult with counsel to ensure that they carefully complete all forms and resolve questions before filling them since the IRS will no longer grant good faith relief from penalties if forms are inaccurate or incomplete.

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