

IRS Provides Some Deadline Relief on ACA Reporting and Furnishing Deadlines

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Relief Only Applies for the 2015 ACA Coverage Offered and Provided Reporting to the IRS and Furnishing of Statements to Employees

While others may have thoughts of holiday cheer in their heads, benefits and human resources personnel have had thoughts of Forms 1095-C and 1095-B and the related transmittal forms swirling in their heads lately. Today the IRS provided all of the benefits and human resources personnel with a bit of good cheer in the form of a brief delay in the deadline for completing and providing employees with Forms 1095-C and for those self-insured plans who did not elect to file the coverage provided information on Form 1095-C and insurers a slight delay for completing and providing employees or insureds with the Form 1095-B documenting the health benefit coverage provided during 2015.

Forms 1095-C must be prepared and filed by "Applicable Large Employers" and the member entities of such Applicable Large Employers (Applicable Large Employers are controlled groups of companies that have collectively 50 or more full-time employees or full-time equivalent employees in the prior calendar year.) Forms 1095-B must be prepared by all insurers issuing health insurance and by all single employer self-insured health plans (excepting those that report coverage on Form 1095-C).

Previously, employers were required to report the offers of health coverage they made to their full-time employees for each of the 12 calendar months in 2015 on Form 1095-C on or before February 1, 2016, Notice 2016-4 extends this deadline for furnishing the statements to the employees until March 31, 2016. This same extension applies for the furnishing of the Form 1095-B by insurers to insureds or by employers with self-insured health plans who elect to provide the information on the Form 1095-B instead of consolidating it on the Form 1095-C. While this might induce one to think about backing off on the preparations, it is important to continue to work on ensuring that the data is being properly captured to create these forms and that it is being translated into the correct coding on the forms considering all of the guidance provided by the Internal Revenue Service on the completion of these forms in the last few months and all of the unique situations requiring careful analysis, particularly in the area of inbound and outbound employees.

The deadline for filing the Forms 1095-C with their transmittal form 1094-C and the Forms 1095-B with their transmittal Form 1094-B with the Service is also extended, but the duration of your extension depends upon whether you are required to file these forms electronically or in paper format. For those employers who file these forms on paper, the new deadline is moved from February 29, 2016 to May 31, 2016 and if you file electronically, your deadline moved from March 31, 2016 to June 30, 2016.

However, this extension means that the previously announced automatic and permissive extensions of times to file or furnish these statements will not apply to the extended due dates. Furthermore, employers that previously requested an extension of time to furnish or file these forms from the IRS should know that those requests will not be formally granted because the extensions in the notice the IRS issued today is greater than the extensions that were available by request. Employers should view the extended due dates as firm due dates after which there will be exposure for failures to file or furnish the required statements. If an employer cannot make the extended due dates, they should still furnish and file the statements and the Service has indicated that such filing and furnishing late will be considered when they consider whether to abate penalties for reasonable cause.

The Notice reiterated that if an employer makes a good faith effort to file the Form 1095-C or 1095-B, if applicable, that for 2015 the Service will not impose the penalties under the Code for deficient filing, but this waiver of penalties for a good faith filing only applies to furnishing and filing of incorrect or incomplete information, including TINs or dates of birth that are reported on a return or statement, and the waiver of penalties for good faith reporting or furnishing does not apply to a failure to timely furnish or file a statement or return (e.g., the Service does not consider a no filing or no furnishing to be a good faith effort to file or furnish).

Impact on Individual Taxpayer Income Tax Returns

Forms 1095-C and 1095-B were not just to be used for employers to report offers of coverage and coverage provided to the Service so they could defend against the assessment of the employer mandate tax (penalty), but they were also required to be provided to individuals to use in filing their individual income tax returns to provide the individual with support as to when the individual mandate tax should not be assessed on the individual and related to the individual's eligibility for the health care tax credit. The delay in furnishing the Forms 1095-C and 1095-B to individuals will mean that individuals may not have those forms when they file their individual income tax returns for 2015.

For 2015 individual income tax returns, if the individual does not have the Form 1095-C or 1095-B when they file their federal income tax return, they do not need to amend their returns or send in the forms separately, but should retain the Form 1095-C or Form 1095-B with their copy of their 2015 individual federal income tax return.

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