



Eye On Washington Health Care Reform Update



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Due Date for Furnishing IRS 2017 Forms 1095-C Extended; Transition Relief from Accuracy Penalties Also Extended

The Internal Revenue Service (IRS) announced on December 22, 2017, that it has extended the 2018 due date for Applicable Large Employers (ALEs) to furnish 2017 health coverage information forms to employees. ALEs now have until March 2, 2018 to provide Forms 1095-C to individuals, which is a 30-day extension from the original due date of January 31, 2018. No extension was provided for filing the forms with the IRS.

The IRS also extended transition relief from penalties under Internal Revenue Code (IRC) sections 6721 and 6722 to ALEs that can demonstrate that they made good-faith efforts to comply with the Form 1095-C reporting requirements under IRC sections 6055 and 6056 for 2017. This good faith relief applies both for furnishing to individuals and for filing with the IRS, and for incorrect or incomplete information.

Background

IRC section 6056 requires ALEs to report to the IRS whether they offer their full-time employees and their employees' dependents the opportunity to enroll in minimum essential coverage (MEC) under an eligible employer-sponsored plan. An ALE is an employer that employed (counting all employees within a controlled group) an average of at least 50 full-time employees (including full-time equivalent employees) during the preceding calendar year. Employees are considered full-time in any month that they are credited with at least 30 hours of service per week, on average, or 130 hours of service in the month. IRC section 6055 requires plan sponsors of self-insured health coverage to report to the IRS information about the enrolled individuals' months of coverage.

ALEs must furnish Forms 1095-C to full-time employees and/or covered individuals regarding the health care coverage offered to them. Individuals may use this information, in part, to determine whether, for each month, they may claim the premium tax credit on their individual income tax returns.

Form 1095-C is to be furnished and filed for each employee who was full-time for one or more months of a year, and includes details of any health care coverage offered to the employee, reported on a monthly basis. For self-insured plans, Form 1095-C must also be provided to any individuals who enrolled in the self-insured MEC, which may include non-full-time employees and any covered spouses and dependents. (One Form 1095-C may be furnished to the employee; i.e., it is not necessary to provide a form to each covered spouse/dependent.)

Extended Deadline to Furnish 2017 Forms 1095-C to Employees

IRS Notice 2018-06 announced an *extension of the deadline to furnish 2017 Forms 1095-C to employees until March 2, 2018*, which is a 30-day extension. However, employers are encouraged to furnish 2017 statements as soon as they are able. The 30-day extension for 2017 forms 1095-C is automatic, so ALEs do not have to request extensions, and the IRS will not respond to extension requests for 2017.

The deadline for *filing* 2017 information returns with the IRS is not extended, and remains February 28, 2018 for paper filers, or April 2, 2018 for electronic filers. Electronic filing is required for parties filing 250 or more forms.

Employers may wish to notify affected employees of any delay in furnishing Forms 1095-C, and offer general guidance to assist them in preparing their U.S. Individual Income Tax Return (IRS Form 1040 or 1040A). Most employees will not need the Form 1095-C to prepare their individual income tax return because they will know whether they had coverage for a month and can simply check a box on their IRS Form 1040 to attest whether they and any dependents had MEC throughout the year. Taxpayers may also rely on other information received from their employer or coverage provider for purposes of filing their returns, including determining eligibility for the premium tax credit and confirming that they had MEC. Taxpayers do not need to wait to receive Form 1095-C before filing their returns.



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Good-Faith Transition Relief from Penalties for Incorrect or Incomplete Information

The IRS also extended transition relief from penalties under IRC sections 6721 and 6722 to ALEs that can demonstrate that they made good-faith efforts to comply with the Form 1095-C reporting requirements under IRC sections 6055 and 6056 for 2017; both for furnishing to individuals and for filing with the IRS, and for both incorrect or incomplete information.

IRC section 6721 imposes a penalty for failing to timely file an information return or for filing an incorrect or incomplete information return. IRC section 6722 imposes a penalty for failing to timely furnish an information statement or furnishing an incorrect or incomplete information statement.

The IRS previously provided transition relief from penalties under IRC sections 6721 and 6722 to ALEs that could show that they made good-faith efforts to comply with the ACA information reporting requirements for 2015 and 2016. This relief applied only to incorrect and incomplete information, and not to the failure to furnish or failure to file Forms 1094-C/1095-C.

Notice 2018-06 extends this relief to 2017 Forms 1094-C/1095-C. ALEs will be eligible for relief from penalties under IRC sections 6721 and 6722 if they can show that

they made good-faith efforts to comply with the reporting requirements, for incorrect or incomplete information, including missing and inaccurate Social Security numbers and dates of birth, as well as other required information. No relief is provided for failure to file or to furnish a statement by the due dates (as extended by Notice 2018-06).

In determining good faith, the IRS will take into account whether an employer or other coverage provider made reasonable efforts to prepare for reporting the required information to the IRS and furnishing it to employees and covered individuals, such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the IRS or testing its ability to transmit information to the IRS. The IRS will also take into account the extent to which the employer is taking steps to ensure that it will be able to comply with the reporting requirements for 2018.

The extension of time for furnishing Forms 1095-C is only for 2017 and has no effect on future years. Treasury and the IRS do not anticipate extending transition relief to reporting for 2018.

For more information, see in IRS [Notice 2018-06](#), or www.irs.gov/aca.

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