



Due Date for Furnishing IRS 2019 Forms 1095-C Extended and Other Penalty Relief

On December 2, 2019, the Internal Revenue Service (IRS) Notice 2019-63 announced the extension of the due date to furnish 2019 health coverage information forms to employees. Applicable Large Employers (ALEs) now have until March 2, 2020, to provide Forms 1095-C to individuals.

The IRS also extended transition relief from penalties for incorrect or incomplete information under 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 Section 6056 for 2019; both for furnishing to individuals and for filing with the IRS.

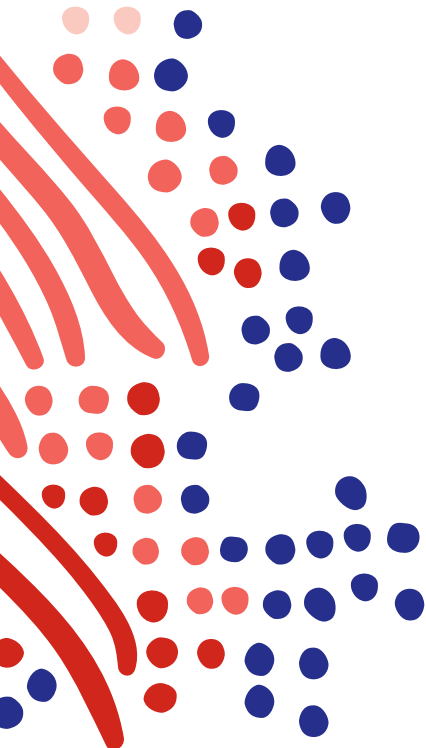
IRS Notice 2019-63 provides additional relief from penalties under Section 6722 to providers of minimum essential coverage (MEC) that fail to furnish Form 1095-B or Form 1095-C to individuals that were not full-time employees for any month of the year, under certain conditions.

Background

Internal Revenue Code (IRC) Section 6056 under the Affordable Care Act (ACA) requires ALEs to report to the IRS whether they offer their full-time employees and their employees' qualified dependents the opportunity to enroll in minimum essential coverage (MEC) under an eligible employer-sponsored plan. An ALE is an employer that employed (any combination of workers 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.

ALEs must furnish Forms 1095-C to employees or covered individuals regarding the health-care coverage offered to them. Individuals may use this information 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 individuals who enrolled in qualified coverage, which may include non-full-time employees and any covered spouses and dependents.



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The January 31 deadline to furnish Forms 1095-C to employees was also extended for 2015 (Notice 2016-4); for 2016 (Notice 2016-70), for 2017 (Notice 2018-06); and for 2018 (Notice 2018-94).

Extended Deadline to Furnish 2019 Forms 1095-C to Employees

IRS Notice 2019-63 announced an extension of the deadline to furnish Forms 1095-C to employees until March 2, 2020, but employers are encouraged to furnish such statements as soon as possible. The extension is automatic and does not need to be requested.

The deadline for filing Forms 1095-C is not extended, and remains February 28, 2020 for paper filers, or March 31, 2020 for electronic filers. Electronic filing is required for parties filing 250 or more forms.

Most employees will not need Form 1095-C to prepare their income tax return. In prior years, some employees may have referenced Form 1095-C, Part III, to determine whether a health-care coverage shared-responsibility payment applied. However, as of January 1, 2019, the shared-responsibility payment was reduced to zero and as a result the "Full-year health-care coverage or exempt" box has been removed from Form 1040. This information may only be relevant for 2019, if an employee purchased health insurance coverage through the Health Insurance Marketplace and wishes to claim the premium tax credit. Taxpayers may also rely on other information received from their employer or coverage provider for purposes of filing their returns.

"Good-Faith" Transition Relief From Penalties for Incorrect or Incomplete Information

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

Section 6721 of the Code imposes a penalty for failing to timely file an Information Return or for filing an incorrect or incomplete Information Return. Section 6722 of the Code imposes a penalty for failing to timely furnish an information statement or for furnishing an incorrect or incomplete information statement.

The IRS previously provided transition relief from penalties under 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, 2016, 2017 and 2018. Notice 2019-63 extends this relief to 2019 Forms 1094-C/1095-C. ALEs will be eligible for relief if they can show that they made good-faith efforts to comply with the reporting requirements for correct and complete information. No relief is provided for failure to file or to furnish a statement by the due dates (as extended by Notice 2019-63). In determining good faith, the IRS will take into account whether an employer made reasonable efforts to prepare for reporting the required information and furnishing it to employees. 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 2019.

Penalty Relief for Failing to Furnish Form 1095-B and Some Form 1095-C

Due to the elimination of the individual shared-responsibility payment beginning after December 31, 2018 (reduced to zero), Form 1095-B is no longer required for a taxpayer to compute federal tax liability or file an income tax return while the requirement to furnish Form 1095-B remains. The IRS will not assess a penalty under Code Sec. 6722 for failing to furnish a Form 1095-B if: (1) the reporting entity posts a notice on its website stating that individuals may request a 2019 Form 1095-B and that the individual must provide an email and physical address to mail the statement and a phone number where they can be contacted; and (2) the reporting entity furnishes the statement within 30 days of the request. This penalty relief does not apply to furnishing Form 1095-C to full-

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time employees, generally required of ALE members that offer self-insured health plans due to combined reporting requirements under Code Sec. 6056 and Code Sec. 6055. Penalty relief will cover any penalties related to furnishing Form 1095-C to any employee who is not a full-time employee for any month in 2019.

"Good-Faith" Efforts May Require Action

As noted, no relief will be provided in the case of reporting entities that do not make a good-faith effort to comply with the regulations. With respect to the accuracy of information reported, such as names and Social Security Numbers (SSNs), these regulations are reflected and explained in [IRS Publication 1586](#). This publication specifies the actions needed to avoid penalties for Information Returns (e.g., Forms 1095-C and W-2) that are filed or furnished with missing or incorrect SSNs, or with names that do not match the corresponding SSNs.

Accuracy penalties can be up to \$270 per return for failure to file and failure to furnish accurate and timely Information Returns, up to an annual cap of \$3,339,000 (\$1,113,000 for employers with gross receipts under \$5,000,000). Separate

penalties under Sections 6721 and 6722 may apply to filing and furnishing, so the aggregate penalty could be \$540 per statement, up to \$6,678,000 per year. The IRS has generally not asserted such penalties systemically for Forms 1095-C or Forms W-2, but enforcement policy may change in the future.

To avoid such penalties, employers may need to follow Publication 1586 guidance to check with employees if they become aware of a name/SSN error. For example, the IRS electronic filing system for Forms 1095-C notifies employers of any errors in names and SSNs. These error notices are not an IRS Notice 972CG; i.e., do not require a specific solicitation, but it may be reasonable under the circumstances to check the employer's records to confirm that the information provided by the employee was transcribed correctly; and, if so, to ask affected employees to verify that the information provided matches the name and Social Security Number on their Social Security card. For example, people may forget to notify the Social Security Administration (SSA) regarding marriages, divorce, etc.

For more information, see [IRS Notice 2019-63](#) or [IRS Publication 1586](#)

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