



# Eye On Washington Health Care Reform Update



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## New IRS Guidance Extends ACA Information Reporting Due Dates

On November 18, 2016, the Internal Revenue Service (IRS) issued Notice 2016-70 (the Notice), which extends the due date for certain 2016 information reporting requirements under the Affordable Care Act (ACA). The Notice provides an automatic extension of the deadline for furnishing applicable ACA forms to individuals. The relief applies to: applicable large employers (ALEs) required to furnish employees with information and file information with the IRS under the Internal Revenue Code (Code) Section 6056 reporting requirements; health insurers; employers that sponsor self-insured health plans; and other providers of minimum essential coverage (MEC) that are required to furnish individuals with information and file information with the IRS under Code Section 6055 reporting requirements.

Specifically, the Notice extends the deadline for furnishing to individuals the 2016 Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, from January 31, 2017 to March 2, 2017. The IRS likewise extended the due date for the 2016 Form 1095-B, *Health Coverage*, from January 31, 2017 to March 2, 2017. Notice 2016-70 indicates that the Department of Treasury and the IRS determined that a substantial number of employers, insurers, and other providers of MEC need additional time to gather and analyze the information necessary to prepare the 2016 Forms 1095-C and 1095-B to be furnished to individuals.

These extensions apply automatically to all filers. ALEs, health insurers, employers that sponsor self-insured health plans, and other providers of MEC do not need to

submit or do anything to take advantage of the new due date. Filers who already submitted an extension request will not receive a reply from the IRS nor are they eligible for additional time extensions to the extended due dates announced in the Notice. Also, keep in mind that these extensions apply only to 2016 returns and information statements, and do not apply in future years.

Notwithstanding the extension provided in Notice 2016-70, the IRS encourages employers and other coverage providers to furnish the 2016 statements as soon as they are able. The Notice also notes that employers or other coverage providers that do not comply with the new extended due date will remain subject to penalties under Code Sections 6722 or 6721 for failures to timely furnish and file, but encourages employers and other coverage providers that do not meet the extended due dates to nonetheless furnish and file, because the IRS will take such furnishing and filing into consideration when determining whether to abate penalties for reasonable cause.

The Department of Treasury and the IRS did not determine that there is any similar need to extend the deadline for filing the 2016 Forms 1094-B, 1095-B, 1094-C, and 1095-C with the IRS. As a result, the deadline to file these information returns with the IRS remains February 28, 2017, if not filing electronically, or March 31, 2017, if filing electronically. Notice 2016-70 does not affect the provisions regarding automatic extensions of time for filing information returns, which remain available under the normal rules by submitting a Form 8809.



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Notice 2016-70 also extends good-faith transition relief from Section 6721 and Section 6722 penalties to the 2016 information-reporting requirements under Sections 6055 and 6056. The preambles to Sections 6055 and 6056 provided transition relief from penalties under Sections 6721 and 6722 to reporting entities that could show that they made good-faith efforts to comply with the information reporting requirements for 2015. The Department of Treasury and the IRS have determined that this relief is appropriate for 2016 as well.

Notice 2016-70 specifies that this relief applies to missing and inaccurate taxpayer identification numbers and dates of birth, as well as other information required on the return or statement. No relief is provided for reporting entities that do not make a good-faith effort to comply or that fail to file the information returns by the extended due dates. In order to determine 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 and furnishing it to employees and other covered individuals, such as gathering and transmitting the necessary data to an agent to prepare the data for submission, or testing its ability to transmit information to the IRS. In addition, the IRS will take into account the extent to which the employer or another coverage provider is taking steps to ensure that it is able to comply with the reporting requirements for 2017.

The Notice also provides guidance and relief to individuals who might not receive a Form 1095-B or Form 1095-C by the time they file their 2016 tax returns. Notice 2016-70 states that taxpayers may rely on other information received from their employer or other coverage provider for purposes of filing their returns, including determining eligibility for the premium tax credit under Section 36B, and confirming that they had minimum essential coverage. Taxpayers should not wait to receive Forms 1095-B and 1095-C before filing their returns.

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