

IRS Issues Updated ACA Guidance and Extends Deadline for Providing 1095-C Forms to Employees

Under the Affordable Care Act (“ACA”), large employers (generally those with 50 or more full-time employees or full-time equivalents) must report annually to the IRS information about the health coverage offered to their full-time employees during the prior year. Employers also must provide copies of the reports to their full-time employees. The IRS uses these reports, which are required under Internal Revenue Code section 6056, to assess whether an employer “shared responsibility” penalty applies. The IRS has designated Forms 1094-C (transmittal to IRS form) and 1095-C (individual employee report) to meet the reporting requirements, and provides FAQs on its website about completing and filing the forms. The IRS recently updated those FAQs, and, for 2017, extended the deadline for providing the forms to employees.

1. Updated Guidance Posted on IRS Website

The IRS recently revised its online [Questions and Answers About Information Reporting by Employers on Form 1094-C and 1095-C](#). The updated FAQs answer specific questions about reporting for employees who decline the employer’s offer of coverage, who are in a “limited assessment period,” and those who must be treated as full-time under the “look-back” measurement method. The update also incorporates [recent IRS guidance](#) on calculating the employee’s required contribution for purposes of the affordability test, provides new information for employers with self-insured plans, and gives additional guidance on reporting offers of COBRA or retiree coverage. The updated FAQs may be used in conjunction with the [2016 Instructions for Forms 1094-C and 1095-C](#), discussed below.

The IRS has also updated its online FAQs on [Internal Revenue Code section 6056](#) (reporting offers of health insurance coverage) and the [employer shared responsibility penalty rules](#).

2. Extended Deadline for Providing 1095-C Forms to Employees

For 2017, the IRS extended the deadline for providing 1095-C Forms to employees, although the IRS did not extend the deadline for filing the forms with the IRS. Generally, employers must furnish copies of Forms 1095-C to full-time employees by



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January 31, for offers of coverage made in the prior year. In [Notice 2016-70](#), the IRS extended the 2017 deadline for providing Forms 1095-C to employees by 30 days, from January 31, 2017 to March 2, 2017.

Generally, Forms 1094-C and 1095-C must be filed with the IRS by February 28, or March 31, if filing electronically. Notice 2016-70 did not extend the deadline for filing Forms 1095-C (and Form 1094-C) with the IRS, meaning the deadline for 2016 forms remains February 28, 2017, or March 31, 2017, if filing electronically. However, as in previous years, employers may submit IRS Form 8809 on or before the due date to obtain an automatic 30-day extension, and may request an additional 30-day extension, if hardship conditions apply.

Notice 2016-70 also extended transitional penalty relief for certain failures to comply with the reporting requirements. Generally, an employer that fails to file, or files incomplete or incorrect Forms 1095-C, is subject to a penalty of \$260 per Form, up to an annual maximum of \$3,193,000. Similar penalties apply for a failure to provide complete and correct copies of the forms to employees.

Last year, the IRS provided transitional penalty relief for employers that could show they made a good-faith effort to comply with the reporting requirements. Notice 2016-70 extended this transitional penalty relief for the 2017 filing year. No relief will be granted, however, for employers that fail to file the forms or provide copies to full-time employees.

3. Revised Forms and Instructions

The IRS has published 2016 versions of Forms [1094-C](#) and [1095-C](#) and [instructions](#). The instructions include the 2016 indexed percentage that updates the test for whether the employer's offer of coverage is affordable under the employer shared responsibility rules. The general test is whether an employee's "required contribution" for self-only coverage under the employer's lowest-cost plan that provides minimum value does not exceed 9.5%, as indexed annually, of the employee's household income. Because employers generally do not know their employees' household income, the IRS established three affordability "safe harbors" or amounts that can be used as a proxy for household income in the test.

The employee's required contribution toward the cost of coverage is reported on Line 15 of Form 1095-C. For 2016, the amount on Line 15 will meet one of the affordability safe harbors only if it does not exceed 9.66%, up from 9.56% in 2015, of the employee's household income (or a proxy, under one of the safe harbors).

Like the updated FAQs, the 2016 instructions provide additional information about reporting offers of COBRA and retiree coverage, and calculating the employee's required contribution for Line 15. The new forms and instructions also reflect that certain types of transitional relief offered in 2015 are no longer available, such as the "Qualifying Offer Method transition relief." There are two new indicator codes for Line 14, to be used to report whether the employer made a conditional offer of coverage to a full-time employee's spouse.

As with all things ACA, changes in 2017 are likely. However, there is no way to predict when and how the large employer penalty and reporting rules will change. In the meantime, employers should review the updated IRS guidance and forms, and make a good faith attempt to timely comply with the current reporting requirements.

If you have any questions regarding the reporting requirements under the ACA, please contact a member of the Hanson Bridgett Employee Benefits Group.

For more information, please contact:

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