

## IRS Extends Deadline for Providing Health Coverage Forms to Employees Under the ACA, but Not the IRS Filing Deadline

Under the Affordable Care Act (ACA), large employers (generally those with 50 or more full-time employees or full-time equivalents) must file IRS Forms 1095-C each year to report information about health coverage offered to their full-time employees during the prior year. The IRS uses the forms to determine whether an employer "shared responsibility" penalty applies. Employers must also provide copies of the forms to their full-time employees. This reporting requirement has not changed, despite the fact that the [Tax Cuts and Jobs Act of 2017](#) reduced the penalty under the ACA's individual mandate to \$0, effective January 1, 2019.

In [Notice 2019-63](#), the IRS extended the deadline for providing Forms 1095-C to employees to report coverage provided in 2019, although the Notice did *not* extend the deadline for filing the forms with the IRS. Generally, employers must provide copies of Forms 1095-C to their full-time employees by January 31 for offers of coverage made in the prior year. The IRS extended the deadline for providing 2019 Forms 1095-C to employees from January 31, 2020 to March 2, 2020.

The annual IRS filing deadline for Forms 1095-C and transmittal Form 1094-C is March 31, if filing electronically, or February 28, if filing paper forms. Notice 2019-63 did not extend the deadline for filing these forms with the IRS, meaning 2019 forms must be filed by March 31, 2020, if filing electronically, or February 28, 2020, if filing paper forms. However, as in previous years, employers may submit IRS Form 8809 on or before the filing deadline to obtain an automatic 30-day extension, and may request an additional 30-day extension if hardship conditions apply.

Notice 2019-63 also extended the transitional penalty relief for employers that report incorrect or incomplete information, but can show that they made a good-faith effort to comply with the reporting requirements. Generally, an employer that fails to file, or files incomplete or incorrect Forms 1095-C, may be subject to a [penalty](#) of up to \$270 per form, capped at an annual maximum of \$3,339,000 or a higher amount, if the IRS determines that the failure was due to the employer's intentional disregard of the filing requirement. Similar penalties apply for a failure to provide complete and correct copies of the forms to employees. As in previous years, the IRS has extended this penalty relief only for

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employers that timely file and furnish Forms 1095-C. No penalty relief will be granted for employers that fail to timely file the forms or provide copies to full-time employees.

## **New Penalty Relief for Health Coverage Provider Reporting**

Under the ACA, health insurance issuers, government agencies, and other providers of minimum essential coverage must annually file with the IRS and provide to certain covered individuals Form 1095-B to show that the individual and their dependents had minimum essential coverage for the prior year. Instead of filing Forms 1095-B, employers with self-insured health coverage must report required information about health coverage provided to employees on Part III of Form 1095-C.

In the past, the IRS used Forms 1095-B to determine whether a penalty under the individual mandate applied. Notice 2019-63 explains that, because the individual mandate penalty was reduced to \$0 as of 2019, individuals do not need the information on Form 1095-B to file their income tax returns for 2019. To reduce expenses incurred by reporting entities in furnishing the forms, the IRS will not assess penalties for a failure to provide Forms 1095-B to individuals in 2020, if two conditions are met: 1) the reporting entity prominently posts a notice on its website that individuals may request a copy of Form 1095-B, along with contact information for requesting the form, and 2) the reporting entity provides a copy of Form 1095-B to any individual who requests one within 30 days.

This new penalty relief does not apply for a failure to file Forms 1095-B with the IRS, and employers with self-insured coverage must continue to report information about their health coverage on Part III of Forms 1095-C for full-time employees. The penalty relief does apply, however, with respect to furnishing Forms 1095-C to part-time employees who are covered by an employer's self-insured health plan.

Employers with fully-insured health plans may want to ask their insurance carriers whether Forms 1095-B will be provided automatically to individuals in 2020, despite the penalty relief provided in Notice 2019-63. If an insurance carrier intends to take advantage of this new penalty relief, employers should be prepared to provide the carrier's website and other contact information to employees who may have questions regarding Form 1095-B.

*If you have any questions regarding the reporting requirements under the ACA, please contact a member of the [Hanson Bridgett Employee Benefits Group](#).*

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