

IRS Provides 2019 Transition Relief and an Extended Deadline for Providing Form 1095 to Employees and Participants

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As in previous years, the IRS announced in Notice 2019-63 that it has extended the due date to March 2, 2020 (instead of January 31, 2020) for employers and insurance companies to provide 2019 Form 1095s to individuals. In addition, the penalty relief available for good faith reporting errors continues to be available. New this year is relief related to providing Form 1095s to certain individuals. The IRS recognized that individuals no longer need proof of minimum essential coverage for their tax returns, so Form 1095s completed solely to comply with §6055 coverage reporting (e.g. small employers offering self-insured coverage) can meet distribution requirements simply by making them available upon request. Each of these items are explained in a bit more detail below. The full notice may be found at <https://www.irs.gov/pub/irs-drop/n-19-63.pdf>.

Extended Deadline

Applicable large employers (ALEs) and small employers who offer self-insured plans now have until March 2, 2020 to provide Forms 1095-B or 1095-C to employees and plan participants. This extension is automatic; employers do not have to request it, but there is no option to further extend the deadline.

Reporting to the IRS

The due dates for filing Form 1094 and Form 1095 returns with the IRS have NOT been extended. For 2019 reporting, the deadline to file Form 1094 and Form 1095s with the IRS is Feb. 28, 2020 for paper filers, and March 31, 2020 for those who file electronically. Any employer filing 250 or more Form 1095s must file electronically. A 30-day extension may be obtained by filing a Form 8809 with the IRS prior to the reporting deadline.

Good Faith Relief

The IRS extended relief from reporting penalties that can apply under §§6721 and 6722 for a failure to report correct or complete information so long as an employer timely filed and can show it made good-faith efforts to comply with information reporting requirements under §6055 (coverage enrollment information) and §6056 (offer of coverage information for full-time employees). It is important to keep in mind that there is no similar relief for a failure to file within the required time frame. Guidance indicates that for incorrect or incomplete reporting that was timely submitted and distributed to individuals, *“the Service will take into account whether an employer or other coverage provider made reasonable efforts to prepare for reporting the required information to the Service 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 Service or testing its ability to transmit information to the Service.”*

Relief for §6055 Statement Delivery

Beginning in 2019, individuals no longer face a tax (or penalty) for failure to maintain minimum essential coverage. The IRS has determined that it will continue to collect coverage information in order to better enforce subsidy eligibility toward coverage purchased through a public Exchange. Therefore, carriers for fully-insured plans as well as employers offering self-insured medical coverage are still required to

report coverage information to the IRS via either a Form 1095-B or 1095-C for 2019. However, because individuals no longer need this information in order to report accurately on their tax returns, the IRS indicated that carriers and employers can choose instead to post a notice prominently on a website stating that responsible individuals may receive a copy of their 2019 Form 1095 upon request, accompanied by an email address and a physical address to which a request may be sent, as well as a telephone number that responsible individuals can use to contact the reporting entity with any questions. If individuals request a copy, a copy must be provided within 30 days of the request. There is no further clarification on what is meant by “website,” but it seems that an employer could likely satisfy this requirement by posting a notice on its intranet or benefit portal.

ALEs required to report on a Form 1095-C for full-time employees must still provide a copy of the Form 1095-C to full-time employees. The option to make the Form 1095 available only upon request rather than automatically distributing it is available only to carriers, small employers reporting coverage for a self-insured medical plan, and ALEs who report coverage under a self-insured medical plan for other than full-time employees (e.g. part-time employees, retirees, COBRA participants). Depending upon the size of the employer and who is enrolled in the employer’s self-insured medical plan, it may be easier for ALEs simply to distribute all Form 1095s rather than distributing them to full-time employees and making a notice available for the rest of the covered individuals.

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