

2020 Employer Reporting – Slight Extension & Transition Relief

Issue Date: October 2020

IRS Notice 2020-76 once again extends the due date to March 2nd, 2021 for providing Form 1095s to individuals and is allowing Form 1095-Bs to be made available upon request rather than requiring individual delivery. The IRS has also granted one final year of penalty relief for good faith reporting errors. The full notice may be found at <https://www.irs.gov/pub/irs-drop/n-20-76.pdf>.

Extended Deadline for Distributing Form 1095s to Individuals

Employer reporting rules require applicable large employers (ALEs) and small employers who offer self-insured plans to provide copies of Form 1095-Cs and Form 1095-Bs to full-time employees and covered individuals by January 31st. As in previous years, the IRS has extended this deadline to March 2nd, 2021. This extension is automatic; employers do not have to request it, but there is no option to further extend the deadline.

***NOTE:** The due dates for filing Form 1094 and Form 1095 returns with the IRS have NOT been extended. For 2020 reporting, the deadline to file Form 1094 and Form 1095s with the IRS is March 1st, 2021 for paper filers, and March 31st, 2020 for those who file electronically. A 30-day extension may be obtained by filing a Form 8809 with the IRS prior to the reporting deadline.*

In addition, those employers required to comply with state individual mandate employer reporting requirements may face earlier deadlines.

Relief for §6055 Statement Delivery (Primarily Form 1095-Bs)

As of January 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 to better enforce subsidy eligibility toward coverage purchased through a public Exchange. Therefore, carriers for fully-insured plans and 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 2020.

However, because individuals no longer need this information in order to report accurately on their tax returns, the IRS is allowing carriers and small employers completing Form 1095-Bs to post a notice by March 2nd, 2021 prominently on a website stating that individuals may receive a copy of their 2020 Form 1095 upon request. The notice must provide an email address and a physical address to which a request may be sent, as well as a telephone number to contact the reporting entity with any questions. If individuals request a copy, a copy must be provided within 30 days of the request.

This relief is not available to ALEs. ALEs required to report offer of coverage information on a Form 1095-C for full-time employees must still provide a copy of the Form 1095-Cs to full-time employees.

In addition, this relief may not always be available in states with individual mandates and associated employer reporting requirements.

Good Faith Relief

The IRS extended relief one final time 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). The 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.”*

While this relief does not extend to failure to timely file with the IRS and distribute copies to full-time employees and covered individuals, the final regulations do indicate applicable penalties may be waived if a failure to timely report and distribute copies is due to reasonable cause (i.e. due to significant mitigating factors or events beyond the reporting entity's control).

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