

California Provides Leniency for Individual Mandate Employer Reporting Requirements

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Introduction

The California Franchise Tax Board (FTB) has provided written confirmation to Benefit Comply that there is no penalty for failure to provide Forms 1095-B and 1095-C to employees and individuals receiving minimum essential coverage (MEC) by the state deadline of January 31, 2021.

Background

California is one of a handful of states that has adopted a state-level individual mandate with associated employer reporting requirements. The CA individual mandate went into effect January 1, 2020 and contains employer reporting obligations for 2021. Specifically, the following employers must report information about California residents enrolled in such coverage:

1. Employers (including out-of-state employers) with 50 or more full-time employees/full-time equivalents in the previous year (i.e., Applicable Large Employers) that offer health coverage; and
2. Employers of any size (including out-of-state employers) that provide MEC to a California resident during a calendar year.

In addition to reporting coverage information to the FTB, employers must also provide a statement using the federal 1095-B or 1095-C, as applicable, to individuals by January 31st. This requirement mirrors the federal reporting requirement for the ACA's employer shared responsibility mandate. However, while the IRS has traditionally extended the deadline for furnishing individual statements to early March, California has kept its January 31st deadline.

Generally, the penalty for failure to comply with California's reporting requirements is \$50 per individual included on a return for whom the failure occurs. However, on January 28, the FTB confirmed in an email to Benefit Comply that there will not be penalties imposed for failure to meet the January 31st deadline for providing statements to individuals.

Conclusion

This is welcome news, as many employers have found it logistically difficult to prepare statements for the more stringent state deadline after several years with a more lenient federal requirement. It is not clear whether this leniency will extend to future years, so employers should plan to have statements ready by January 31st in 2022 unless the state provides different information. And it will still be important to ensure compliance with the federal 1094/1095 reporting deadlines to individuals and the IRS when applicable.

We have updated our State Individual Mandate Employer Reporting Guide to reflect this newest information. You may find and download a copy of the guide here:

<https://www.benefitcomply.com/resources/resource-library/>.

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