



IRS Provides Limited Relief for Health Coverage Information Reporting

The following general summary is intended to educate employers and plan sponsors on the potential effects of recent government guidance on employee benefit plans. This summary is not and should not be construed as legal or tax advice. The government's guidance is complex and very fact specific. As always, we strongly encourage employers and plan sponsors to consult competent legal or benefits counsel for all guidance on how the actions apply in their circumstances.

On October 2, 2020, the Internal Revenue Service (IRS) released an advance version of Notice 2020-76¹ which extends the deadline under sections 6055 and 6066 of the Internal Revenue Code for insurers, self-insuring employers, applicable large employers (ALEs), and certain other providers of minimum essential coverage to furnish to individuals the 2020 Form 1095-B: Health Coverage² and 2020 Form 1095-C: Employer-Provided Health Insurance Offer and Coverage.³

Generally, such entities must provide these forms by January 31 of the year following the applicable ACA reporting year. For ACA reporting year 2020, however, the deadline for these entities to furnish information returns to employees and beneficiaries has been delayed from January 31, 2021 to March 2, 2021.

By way of background, Section 6055 requires health insurance issuers, self-insuring employers, government agencies, and other providers of minimum essential coverage to file and furnish annual information returns to the IRS and furnish statements to individuals regarding coverage provided. Form 1095-B generally contains enrollment information; ALEs report enrollment information for employees enrolled in their self-insured health plans on Part III of Form 1095-C.

Section 6056 requires applicable large employers (which are generally those with 50 or more full-time employees, including full-time equivalent employees, in the previous year) to file and furnish annual information returns and statements relating to the health insurance, if any, that the employer offers to its full-time employees.

According to Notice 2020-76, the IRS and Treasury Department have determined that a "substantial number of employers, insurers, and other providers of minimum essential coverage need additional time" to complete the 2020 Forms 1095-B and 1095-C that are to be furnished to individuals.

Notice 2020-76 cautions that it does not extend the due date for filing Forms 1094-B, 1095-B, 1094-C or 1095-C with the IRS for 2020. The deadlines for these will be March 1, 2021 for paper filings (as February 28, 2021 will fall on a Sunday) and – for electronic filings – March 31, 2021. Notice 2020-76 does not affect the provisions regarding an automatic extension of time for filing information returns; the automatic extension remains available under the normal rules for employers and other coverage providers that submit a Form 8809 on or before the due date; and does not affect the provisions regarding additional extensions of time to file.

Notice 2020-76 also provides that the IRS will not impose a penalty under section 6722 for failures to furnish a Form 1095-B to responsible individuals and also provides a final extension of transitional good-faith relief from section 6721 and 6722 penalties to the 2020 information reporting requirements under sections 6055 and 6056. No penalties will be imposed on entities that report incorrect or incomplete information (either

¹ <https://www.irs.gov/pub/irs-drop/n-20-76.pdf>

² <https://www.irs.gov/pub/irs-pdf/f1095b.pdf>

³ <https://www.irs.gov/pub/irs-pdf/f1095c.pdf>

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on statements provided to individuals or to returns filed with the IRS) if good-faith efforts are made to comply with these reporting requirements. This relief is not available to entities that fail to furnish statements or file returns, miss an applicable deadline, or are otherwise not making good-faith efforts to comply. Evidence of these efforts may include gathering necessary data and transmitting it to a third-party to prepare the necessary reports, or testing the ability to transmit data to the IRS. Notice 2020-76 provides that 2020 is the last year the IRS intends to provide this good-faith relief from penalties for incorrect or incomplete information returns.

In addition, for 2020, the IRS will not assess penalties against reporting entities that fail to furnish Forms 1095-B automatically to individuals provided: (1) a Form 1095-B is furnished within 30 days after an individual's request is received; and (2) a notice with information about requesting Form 1095-B is posted prominently on the reporting entity's website. Similar relief is afforded to ALEs that fail to furnish Forms 1095-C automatically to employees who were not full-time for any month in 2020, provided the form is furnished by request and website notice is provided.

With this notice, the IRS and Treasury Department are requesting comments as to whether and how the reporting requirements under section 6055 may need to change, if at all, for future years. Comments are requested by February 1, 2021.

Nothing in this communication is intended as legal, tax, financial or medical advice. We assume no liability whatsoever in connection with its use, nor are these comments directed to specific situations. Always consult a professional when making life-changing decisions.