



IRS Grants Permanent 30-Day Extension to Providing Individual ACA Statements

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'Tis the season for applicable large employers (ALEs) to scramble to meet their Affordable Care Act (ACA) obligation to provide full-time employees with individual statements that provide group health coverage information required to be filed with the IRS on Form 1095-C. Although the ACA generally requires ALEs to furnish individual statements by no later than January 31 of the year following the year being reported, each year the IRS has extended the deadline by 30 days. The IRS recently issued final rules that will make the 30-day extension permanent effective for calendar years starting on or after January 1, 2022. So, individual statements relating to 2022 coverage must be provided by no later than March 2, 2023.

The final regulations also provide for an alternative means for entities required to furnish Form 1095-B individual statements for tax years where the individual responsibility payment remains zero as set by the Tax Cuts and Jobs Act (TCJA). For those years, reporting entities can post a clear and conspicuous notice on their website stating that individuals may receive a statement upon request. The notice must:

- include an email address, a physical address, and a telephone number for individuals to contact a reporting entity with any questions;
- be written in plain, non-technical terms and in a font size large enough to alert a viewer that the information concerns tax statement reporting that individuals had health coverage; and
- remain on the website until October 15 of the year following the calendar year to which the statement relates.

The final rule requires a reporting entity to provide a Form 1095-B to an individual within 30 days of receiving their request.

Because the TCJA had no effect on the ACA's employer shared responsibility payment (ESRP) rules, which are enforced based on information on Form 1095-C, ALEs will not be able to use an alternative method of

providing individual statements to full-time employees. ALEs can only use an alternative means for any statements it must provide to non-employees or part-time employees covered under their group health plan.

The final regulations also clarify that Medicaid coverage limited to COVID-19 testing and diagnostic services provided under the Families First Coronavirus Response Act does not qualify as minimum essential coverage for ACA purposes. Thus, such coverage will not prevent an individual from being eligible for a premium tax credit to help pay for Marketplace health coverage.

Finally, despite multiple public commenters asking the IRS to keep good faith transitional relief in place for ACA reporting and filing mistakes, the IRS formally declined to extend that relief. According to the IRS, the good faith relief offered beginning in calendar year 2015 was meant to be transitional as ACA reporting requirements were new and complicated. Reporting requirements have been in place for seven years, so the IRS believes transitional relief is no longer appropriate. Moreover, the IRS and Department of the Treasury believe that the standard reasonable cause exception under the Internal Revenue Code gives ALEs ample relief from applicable penalties for failing to timely or accurately file Forms 1094-C and 1095-C.

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