New ACA Reporting Rules

Jan. 23, 2025

The Employer Reporting Improvement Act (ERIA), outlined in a recent Compliance Advisor, and the Paperwork Burden Reduction Act (PBRA) were signed into law by President Biden. Together, the new laws ease the burdens of furnishing copies of IRS Forms 1095-B and 1095-C to applicable individuals but also give applicable large employers new protections related to employer shared responsibility penalty assessments.

Key Changes

Reporting Individual Coverage Information

The ERIA now allows employers and health insurance providers to submit spouses' and dependents' names and date of birth in lieu of their Tax Identification Number (TIN) on the Form 1095-B and 1095-C filings.

Distribution of Forms 1095-B and 1095-C Upon Request

The PBRA no longer requires employers and health insurance providers to distribute Forms 1095-B and 1095-C to all covered individuals, so long as certain conditions are met. Beginning with 2024 returns, the PBRA permits employers to meet the ACA's furnishing requirement by:

- Providing "clear, conspicuous, and accessible notice" that any person who would otherwise be entitled to receive a copy of Form 1095-B or Form 1095-C may request a copy of the applicable form.
- Providing a copy of the form to any individual who requests it within 30 days of the request or, if later, by January 31 of the year following the reporting year.

Electronic Distribution of Forms

The ERIA allows employers and providers to electronically distribute 1095-B and 1095-C forms to covered individuals.

Extended Response Time for Proposed IRS Assessments

For large employers subject to IRS assessments for failing to offer adequate, affordable minimum essential coverage, the ERIA extends the response period for initial IRS proposed assessments from 30 days to 90 days. This added time provides employers with a more reasonable window to address discrepancies and respond to proposed penalties. It also alleviates the necessity of extension requests, which the IRS had been routinely granting.

Statute of Limitations on IRS Assessments

A six-year statute of limitations has been established for the IRS to collect penalties related to the ACA employer shared responsibility requirements. Previously, the IRS had taken the position that no statute of limitations applied, so this update is good news for employers. Employers are encouraged to maintain detailed records for this six-year period to ensure readiness for potential audits, inquiries, or penalties.

Next Steps

- Understand your state and local law compliance obligations. The PBRA does not change the distribution requirements for states or jurisdictions with an individual health insurance mandate, including California, Massachusetts, New Jersey, Rhode Island, and Washington D.C. Before switching your practices for distributing Forms 1095-B or C, check relevant laws covering employees or dependents in jurisdictions where paper distribution may still be required.
- Decide on alternative manner of furnishing statements. Evaluate using the alternative method to distribute Forms 1095-B and C to save time and costs and ensure IRS compliance with notices. Consult vendors or counsel if needed.
- Prepare and post notices. If using the alternative method of distribution, ensure the notice complies with IRS rules and coordinate with vendors on handling requests and meeting deadlines – and be sure to monitor any future IRS guidance on the content of these notices.
- Respond to requests for forms. Distribute requested forms within 30 days of request (or by January 31, if later) if using the alternative distribution method.
- Draft consent forms for electronic distribution. Create a system to obtain consent for electronic delivery of forms, ensuring compliance with individual preferences.
- Train your team. Update and train your team on ACA compliance changes and new processes and be prepared to answer any employee questions.
- Understand new ALE protections. Familiarize yourself with updated ERIA provisions, including extended response time to IRS Letter 226-J and the six-year penalty statute of limitations.
