



IRS Announces Certain Changes to ACA Reporting Requirements

On December 2, 2019 the Internal Revenue Service (“IRS”) issued Notice [2019-63](#) that extends the deadline from **January 31, 2020 to March 2, 2020** for Applicable Large Employers (“ALE”)¹ to issue Affordable Care Act (“ACA”) Forms 1095-C to individuals, with no further 30-day extension available. Employers with self-funded plans must continue to complete Part III of Form 1095-C to report monthly enrollment status for all full-time employees and any dependents, even though the individual mandate penalty for failure to have Minimum Essential (health) Coverage (“MEC”) has been set to zero for 2019. On the other hand, insurance carriers may elect to forgo issuing Forms 1095-B to individuals covered under insured health plans when certain conditions are met.

In addition, the IRS will not impose penalties when a “good faith effort” has been made to accurately prepare Forms 1095 (B or C), provided the forms are issued and filed in a timely manner. ACA employer mandate penalties may still be assessed for failure to offer coverage to 95% of full-time employees [the “a” penalty] or failure to offer minimum value/affordable coverage [the “b” penalty], when a full-time employee receives a subsidy for Marketplace coverage.

A few key points of interest:

- No automatic filing extension has been granted. Forms 1095-C along with transmittal Forms 1094-C should be filed with the IRS by **February 28, 2020** (paper filers) and **March 31, 2020** (electronic filers), unless an extension to file the forms is submitted on Form 8809. Employers filing 250 or more Forms 1095 must file electronically unless a waiver is granted by the IRS.
- The IRS is providing relief to entities who report MEC on Form 1095-B (i.e. insurance carriers and small employers with self-funded plans not subject to the ACA employer mandate). The IRS will not require these entities to issue Form 1095-B to covered members as taxpayers do not need these forms to file their 2019 taxes. Relief is granted provided the reporting entity: (a) prominently posts a notice on their website stating that a copy of Form 1095-B is available upon request along with information on how to obtain the form, and (b) the entity furnishes the statement within 30 days of any request. *Reporting entities must continue to file MEC information on Form 1095-B with the IRS.* Employers with insured plans may wish to alert employees they may not receive a Form 1095-B from the carrier this year.
- Employers with self-funded plans must continue to complete Form 1095-C in its entirety, including Part III to report monthly enrollment status for all full-time employees and any dependents.
- The IRS will not assess penalties on an employer for failure to issue Form 1095-C to any individual covered under the employer’s self-funded plan who was not a full-time employee for any month in 2019, such as a COBRA participant for all of 2019. *However, employers will still need to file coverage information with the IRS for these former employees/qualified beneficiaries on Form 1095-B or Part III of Form 1095-C, post a website notice and issue the statement within 30 days upon request.* Given these requirements, it might be easier for employers to simply continue preparing and issuing the statements as has been done in the past.



- The IRS is extending transition relief from penalties when a *good faith effort* to accurately report information can be shown which applies to missing and inaccurate taxpayer identification numbers, dates of birth, as well as other information required on the return or statement. Penalty relief does not extend for failing to timely issue statements and file with the IRS. The penalty amounts for 2019 are \$270 per return to a maximum of \$3,339,000 for each of these violations.
- Treasury and IRS are seeking comment on whether MEC reporting, the extension of the due date for furnishing statements to individuals and the good faith reporting efforts should be continued in the future.

In general, this relief may have no substantial impact for most employers. Employers with New Jersey and Washington D.C. residents covered under their health plans should review notification and/or filing requirements to comply with the individual mandate provisions that became effective for 2019 in these locations.

¹ *The IRS requires employers who are part of a controlled group of companies (“ALE member companies”) to separately prepare and file Forms 1095-C for their own employee population. We use the term employer to refer to a single employer or a member company of an Applicable Large Employer.*

ADDITIONAL INFORMATION

For specific questions concerning information contained in this **Client Alert**, please contact your CohnReznick Benefits consultant. Information contained in this **Client Alert** is not intended to render tax or legal advice. Employers should consult with qualified legal and/or tax counsel for guidance with respect to matters of law, tax and related regulation. CohnReznick Benefits consultants provides comprehensive consulting and administrative services with respect to all forms of employee benefits, risk management, qualified and non-qualified retirement plans, M&A due diligence, private client services, and compensation and human resources. For additional information about our services, please contact us at 516.683.6100