

HEALTH CARE REFORM: IRS EXTENDS DUE DATE FOR FURNISHING IRS FORM 1095-C TO EMPLOYEES

The Internal Revenue Service (IRS) issued Notice 2016-70 on November 18, 2016 extending the deadline for furnishing Form 1095-C to employees and extending good-faith transition relief to the 2016 reporting year. This *Briefing* outlines these extensions as well as other key points that employers should keep in mind as they prepare for the second year of reporting.

BACKGROUND

Internal Revenue Code (IRC) section 6056 requires each Applicable Large Employer (ALE) subject to the Employer Mandate to file information returns with the IRS and provide statements to their full-time employees about the employer-sponsored health coverage offered. This reporting will assist the IRS with enforcing the Employer Mandate and with administering the premium tax credits. ALEs sponsoring self-insured group health plans are also required to report under IRC section 6055 on everyone enrolled in their self-insured plans. This reporting will assist the IRS with enforcing the Individual Mandate.

ALEs must report under section 6056 using IRS Forms 1094-C and 1095-C, Parts I and II. ALEs offering self-insured plans must also complete Part III on Form 1095-C for everyone enrolled in those plans. Carriers are responsible for the section 6055 reporting for fully-insured plans.

FILING DEADLINES

The IRS has extended the deadline for providing statements to employees from January 31, 2017 to March 2, 2017. No extensions beyond March 2, 2017 will be granted for furnishing statements to employees.

The deadline for filing with the IRS has not been extended. These deadlines remain February 28, 2017, if not filing electronically, or March 31, 2017, if filing electronically. ALEs filing 250 or more forms are required to file electronically. Requests for an automatic 30-day extension can be made by submitting Form 8809 on or before the filing due date. No signature or explanation is required for the extension request. Additional 30-day extensions may be available under certain hardships.

Penalties for failing to meet these deadlines can be up to \$260 per statement up to a maximum of \$3,193,000 and \$260 per return up to an additional maximum of \$3,193,000. However, the IRS has extended good-faith transition relief from penalties for the 2016 reporting year. As with the prior transition relief, employers must be able to show they have made good-faith efforts to comply with the reporting requirements and file on time.

CHANGES AND CLARIFICATIONS TO FORMS

The IRS issued final versions of Forms 1094-C and 1095-C, along with instructions, for the 2016 reporting year. There are some minor changes and clarifications, including:

- Two new Form 1095-C indicator codes – 1J and 1K – for line 14 added for reporting “conditional” offers of coverage to spouses. A “conditional” offer of coverage is one that is subject to one or more reasonable, objective conditions (e.g., an offer to cover an employee’s spouse only if the spouse is not eligible for coverage under Medicare or another employer-sponsored group health plan).
- Clarification that code 1G on line 14 of Form 1095-C applies for the entire calendar year or not at all.
- The affordability safe harbor codes (2F, 2G, 2H) on Form 1095-C line 16 cannot be used if the ALE fails to offer minimum essential coverage to at least 95 percent of its full-time employees and their dependents.

The 2016 instructions provide more detailed guidance than the 2015 instructions and include examples for reporting on COBRA coverage. The instructions also address how to report on retiree coverage. Final versions of Forms 1094-C and 1095-C, along with instructions, are available from the IRS website:

- Form 1094-C – <https://www.irs.gov/uac/About-Form-1094-C>
- Form 1095-C – <https://www.irs.gov/uac/About-Form-1095-C>

SOLICITING SOCIAL SECURITY NUMBERS

ALEs with self-insured plans must take reasonable steps to solicit the social security numbers of everyone enrolled in those plans. IRS Notice 2016-70 extends the good-faith transition relief to any missing or inaccurate social security numbers and dates of birth. However, ALEs must still be able to show they have made good-faith efforts to solicit the social security numbers. An overview of recent IRS guidance outlining the reasonable steps ALEs must take is available in our October 2016 *Briefing*:

http://www.keenan.com/news/brief/2016/BRF_20161014_HCRClarificationSolicitationSSNTINs_KA.pdf

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