

HEALTH CARE REFORM: IRS EXTENDS REPORTING DEADLINE & GOOD FAITH RELIEF ONCE AGAIN

The Internal Revenue Service (IRS) issued Revenue Procedure 2018-57 on November 29, 2018 extending the deadline for furnishing Form 1095-C to employees and extending good-faith transition relief to the 2018 reporting year. This *Briefing* outlines these extensions as well as other key points employers should keep in mind as they prepare for the next round 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. ALEs sponsoring self-insured group health plans are also required to report under IRC section 6055 on everyone enrolled in their self-insured plans.

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 section 6055 reporting for fully-insured plans on Forms 1094-B and 1095-B.

FILING DEADLINES

The IRS has extended the deadline for providing statements to employees from January 31, 2019 to March 4, 2019. No extensions beyond March 4, 2019 will be granted for furnishing statements to employees.

The deadline for filing with the IRS has not been extended. These deadlines remain February 28, 2019, if not filing electronically, or April 1, 2019, 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 and additional 30-day extensions may be available for certain hardships.

Final versions of Forms 1094-C and 1095-C, along with instructions, are available here:

- 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 social security numbers for everyone enrolled in those plans. For an overview of IRS guidance on what constitutes “reasonable steps,” please see the following *Briefing*:

https://www.keenan.com/news/brief_hc/2016/BRF_20161014_HCRClarificationSolicitationSSNTINs_KHC.pdf

POTENTIAL PENALTIES

Penalties for failing to meet the filing deadlines can be up to \$270 per statement up to a maximum of \$3,339,000 and \$270 per return up to an additional maximum of \$3,339,000. However, the IRS has extended good-faith transition relief from penalties for the 2018 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.

The IRS also issued proposed regulations that include a safe harbor from penalties for failing to provide correct statements to employees or correct information returns to the IRS. The proposed safe harbor is consistent with language in the 2018 Instructions for Forms 1094-C and 1095-C. It is intended to address inadvertent reporting errors relating to dollar amounts but only so long as the error is \$100 or less. For example, assume an ALE erroneously reports on Line 15 of Form 1095-C that an employee's required contribution for the lowest cost self-only coverage that provides minimum value was \$150 per month instead of \$190 per month. Under the safe harbor, the IRS will disregard this type of de minimis reporting error for penalty assessment purposes.

The de minimis safe harbor will not apply in certain circumstances, however, even if the amount is \$100 or less. For example, if an incorrect statement is provided to an employee but the employee elects in writing to receive a corrected statement, then the ALE cannot rely on the safe harbor and must provide a corrected statement. The safe harbor also does not apply if an ALE intentionally misreports the dollar amount or fails to file a return or provide a statement.

Please contact your Keenan HealthCare Account Manager for questions regarding this *Briefing* or if you require any additional information.

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