

IRS Releases FINAL 2017 ACA Forms and Instructions 1094-C and 1095-C

The Internal Revenue Service (“IRS”) has released the final 2017 version of the Affordable Care Act (“ACA”) Information Reporting forms, a.k.a. Forms 1094-C and 1095-C and instructions. Applicable Large Employers (“ALEs”)¹ are obligated to issue and file the 2017 ACA information returns. **Other than removal of transition relief information, there are no significant changes from the 2016 forms and instructions or the draft 2017 instructions issued earlier this year.**

The 2017 deadline to issue participant statements is **January 31, 2018** and to file with the IRS is **February 28, 2018** (paper filing) or **April 2, 2018** (electronic filing required when filing 250+ Forms 1095-C to the IRS). The instructions provide guidance on how to request an extension of time to furnish statements to employees, file with the IRS and to request a waiver to file electronically.

Forms 1094-B and 1095-B and instructions have also been released. These forms are used by insurance carriers and other health coverage providers to report Minimum Essential Coverage (“MEC”), including small employers with self-funded plans not subject to the ACA employer mandate. Employers with self-funded health plans may elect to use the “B” forms to report health coverage for plan members who were never an ACA full-time employee for the entire 2017 calendar year (i.e. COBRA participants).

For 2015 and 2016, the IRS indicated it would not impose penalties for the incorrect distribution or filing of forms when a “good faith effort” to comply could be demonstrated. Unless the IRS makes a further announcement, **this good faith effort provision is NOT available for 2017**. Penalties of \$260 per statement (maximum penalty of \$3,218,500) may be imposed for failure to file a correct statement with the IRS and the same penalty amount may be imposed for failure to issue a correct statement to a full-time employee. A penalty of \$260 per return may also apply for failure to file electronically, unless an approved waiver has been granted or reasonable cause can be established. The instructions provide guidance on how to prepare and/or file a corrected statement.

Employers should review processes and procedures to ensure all information that must be reported is being properly captured and recorded to populate employee statements and file with the IRS.

More information about the ACA reporting requirements may be found on the [IRS website](#) as well as our earlier [UPDATE](#) on the 2017 DRAFT forms and instructions.

¹ An Applicable Large Employer is an employer with 50 or more full-time employees (including full-time equivalent employees) in the previous year (2016). For purposes of determining if an employer or group of employers is an Applicable Large Employer, all member companies under common control are aggregated together.

ADDITIONAL INFORMATION

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. Cherry Bekaert Benefits Consulting, LLC provides comprehensive consulting and administrative services with respect to all forms of employee benefits, risk management, qualified and non-qualified retirement plans, private client services, transaction services, and compensation and human resources.

For additional information about our services, please contact Kyle Frigon at 404-733-3256 or via email at: kfrigon@cherrybekaertbenefits.com.