

January 2018

IRS Extends Deadline to Issue 2017 Forms 1095 AND Extends Good Faith Effort Standards

On December 22, 2017 the Internal Revenue Service (“IRS”) issued Notice [2018-06](#) that extends the deadline from **January 31, 2018 to March 2, 2018** for issuers and Applicable Large Employers (“ALE”) to issue Affordable Care Act (“ACA”) Forms 1095-B and/or Form 1095-C to individuals. In addition, the IRS will not impose filing and issuance penalties when a “good faith effort” has been made to accurately and timely issue and file these statements. 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:

- The IRS will not grant an additional 30-day extension to issue the statements to individuals as the IRS is *automatically* extending the deadline by 30 days. The IRS will not respond to any 30-day extension requests that may have already been submitted.
- This Notice does not extend the deadline to file these information returns with the IRS and therefore, Forms 1095-B and/or Forms 1095-C along with transmittal Forms 1094 should be furnished to the IRS by February 28, 2018 (paper filers) and April 2, 2018 (electronic filers), unless an extension to file the forms with the IRS is submitted on Form 8809.
- ALE member companies that file 250 or more Forms 1095 must file electronically unless a waiver is granted by the IRS.
- The IRS is extending transition relief from penalties when a *good faith effort* to comply with the reporting requirements under IRC sections 6055 (MEC) and 6056 (ALE employer mandate) for 2017 (both for furnishing to individuals and for filing with the IRS) for incorrect or incomplete information reported on the return or statement. The IRC 6055 and IRC 6056 penalty amounts for 2017 are \$260 per return to a maximum of \$3,218,500.
- Taxpayers may file their 2017 tax return prior to receipt of Form 1095-B or Form 1095-C to confirm satisfaction of the individual mandate Minimum Essential Coverage (“MEC”) requirement. It should be noted that the individual mandate remains in effect for calendar year 2018. Effective 2019, individuals will no longer be subject to a tax penalty for failure to secure MEC as the 2017 tax reform bill (Tax Cuts and Jobs Act) sets the penalty for failure to have health coverage to zero beginning in 2019.
- Employers will continue to have ACA reporting obligations for 2019 and later unless further legislative or regulatory action is enacted, as the employer mandate remains in effect.

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.

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