

November 2018

IRS Extends Deadline to Issue 2018 Forms 1095 AND Extends Good Faith Effort Standards

On November 29, 2018 the Internal Revenue Service (“IRS”) issued [Notice 2018-94](#) that extends the deadline from **January 31, 2019 to March 4, 2019** 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 days¹. 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, 2019 (paper filers) and April 1, 2019 (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.
- Taxpayers may file their 2018 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.
- 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 2018 (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 2018 are \$270 per return to a maximum of \$3,275,500.
- Treasury and IRS indicated they would review what, if any filing associated with the individual mandate MEC requirement will be needed for the 2019 calendar year (filed in 2020) as the individual mandate penalty has been set to zero for 2019 for failure to enroll in MEC.

¹The automatic 30-day extension falls on a Saturday and therefore, the due date is extended to Monday, March 4, 2019.

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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