

## IRS Releases Final Forms and Instructions for 2017 Affordable Care Act Information Reporting

October 9, 2017

The IRS recently released final 2017 instructions and forms (“B Forms” and “C Forms”) to be used for completing Affordable Care Act (ACA) information reporting in early 2018 (for the 2017 calendar year’s reporting).

As background, the B Forms (1094-B and 1095-B) are generally filed by health insurers and small employers with self-insured health plans. The C Forms (1094-C and 1095-C) are generally filed by applicable large employers that employed 50 or more full-time employees and full-time equivalents in the prior calendar year (“ALEs”). Most employers will be filing the C Forms with the IRS as well as providing the forms to their full-time employees. The IRS uses the C Forms to determine if penalties should be assessed against employers under the Employer Shared Responsibility (“Pay or Play”) provisions of the ACA.

### How are the 2017 Final Instructions for the C Forms Different from the Draft Instructions?

The new [final instructions](#) for the C Forms (“the Final Instructions”) make no substantive changes to the 2017 draft instructions for the C Forms (see our eAlert on the 2017 draft instructions for the C Forms [here](#)). Additionally, there are no substantive changes between the final and draft 2017 forms. However, the 2017 Final Instructions and forms do contain a few substantive changes from the 2016 versions. The most noteworthy clarifications and additions are the following:

**Form 1094-C:** This form was changed in two ways to reflect the elimination of certain ACA transition relief under Code § 4980H that was available to employers in 2015: (i) the removal of the Line 22 box for “Section 4980H Transition Relief,” and (ii) the removal of the corresponding column in Part III of the form, where the employer previously indicated the type of transition relief that was applicable. Although Section 4980H transition relief was only applicable for the 2015 plan year, it remained on the 2016 form since some non-calendar year plans qualified for this relief during months of the 2015 plan year that continued into the 2016 calendar year. In 2017, the relief was never applicable.

**Form 1095-C:** There are no substantive changes to this form from last year. There is, however, a new paragraph in the

“Instructions for Recipients” Section of the form, entitled “Additional information,” that refers recipients to an [IRS webpage](#), which provides an overview of the ACA’s individual shared responsibility provisions, employer-shared responsibility provisions, and premium tax credit provisions, along with contact information for the IRS Healthcare Hotline for questions.

### The Final Instructions:

Consistent with the changes to the Form 1094-C, the references to Section 4980H

transition relief have been removed. Additionally, the deadlines to furnish statements to individuals and to file with the IRS have been updated for 2018 (to report 2017 data). Further, the Final Instructions address several minor issues affecting the Form 1095-C, including: (i) the field on that form indicating that the “plan start month” continues to be optional, even though the 2016 instructions anticipated it would be mandatory for 2017. (ii) Citing [IRS Notice 2017-9](#), the Final Instructions note that ALEs are not required to correct “de minimis errors” (those where no single incorrect amount differs from the correct amount by more than \$100) in reporting the dollar amount of required employee contributions on Line 15—unless the recipient requests a corrected form. (iii) The Final Instructions clarify that there is no specific code to enter on Line 16 to indicate that an employee was offered Minimal Essential Coverage (MEC) and declined the coverage. Finally, (iv) a new “tip” in the instructions refers filers to an [IRS website](#) for additional information and examples about reporting offers of COBRA and other post-employment coverage, and (v) the existing interim relief for multiemployer plan (commonly referred to as “union plans”) reporting continues for another year. Accordingly, ALEs qualifying for this relief will not need to obtain eligibility and other information from multiemployer plans for the 2017 filing.

## SYNOPSIS

The new 2017 final instructions and forms make no substantive changes to the 2017 draft instructions and forms. The new instructions and forms do, however, contain a few substantive changes when compared to last year’s versions.

### Where Can I Download the Final Forms and Instructions?

Links to the new forms and instructions are set forth below:

#### Links to 2017 Final Forms

[Final Form 1094-C](#)

[Final Form 1095-C](#)

[Final Form 1094-B](#)

[Final Form 1095-B](#)

#### Links to 2017 Final Instructions

[Final C Form Instructions](#)

[Final B Form Instructions](#)

### When Do Employers Have to Distribute the Forms? When is Filing with the IRS Required?

The 2017 Forms 1095-C must be furnished to employees by January 31, 2018, and must be filed with the IRS by February 28, 2018 if filed on paper, and by April 2, 2018 if filed electronically (the filing deadline is normally on March 31, 2018, but that day is a Saturday). Electronic filing is required for parties filing 250 or more forms.

### What Should Employers Do Next?

There are two notable differences to keep in mind when comparing 2017 to 2016 reporting requirements. First of all, unlike previous years, an employer will no longer be able to use the “good faith effort” penalty relief standard to protect itself from filing forms with inaccurate or incorrect information. While

this could still change if the IRS issues subsequent guidance, as of the time of this writing, no good faith effort standard has been communicated by the IRS. Loss of good faith penalty relief is particularly important given the steep penalties involved in getting this reporting wrong – a \$250 (indexed) penalty for each incorrectly filed or furnished return, up to a maximum \$3 million (indexed) penalty.

Secondly, unlike last year, employers completing 1095-C forms will not have the benefit of the extension that was granted for furnishing the forms (previously extended from January 31 to March 2).

Employers that have been delaying understanding these requirements should begin that process now in order to reduce their possible exposure to liability. Corporate Synergies’ benefits consultants and account managers are prepared to guide your organization through this process.

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**If you have any additional questions, please call your Corporate Synergies Account Manager or 866.CSG.1719.**

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