

COMPLIANCE ALERT

The IRS Finalizes ACA Information Reporting Relief and Deadline Extensions

December 16, 2022

Action Required:

- Note the new furnishing and filing deadlines for Forms 1095-B and 1095-C.
- Ensure ACA reporting forms are provided to individuals by March 2, 2023 and filed by the new deadline.

On December 12, 2022, the IRS issued [final regulations](#) (“Final Rules”) providing Affordable Care Act (ACA) information reporting relief applicable to filers of both Forms 1095-B and 1095-C (the “Forms”).

Among other rule changes, the new Final Rules:

- (1) allow certain employers and coverage providers to satisfy their obligation to “furnish” the Forms to employees and participants by posting the Forms on a website, and
- (2) extend the deadline to furnish the Forms by 30 days.

The Final Rules apply for calendar years beginning after December 31, 2021.

What Are the New Deadlines for Filing and Furnishing the 2022 Forms?

For the 2022 calendar year, covered employers must:

- Furnish statements to individuals by March 2, 2023; and
- File returns with the IRS by Feb. 28, 2023, if filing by paper (or March 31, 2023, if filing electronically).

What Should Employers and Plan Sponsors Do Next?

Employers and plan sponsors should ensure that their ACA reporting forms continue to be filed and furnished in a timely manner, taking note of the automatic extension of the furnishing requirement to March 2 and other reporting relief in the Final Rules. ■

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How Do the Final Rules Provide Reporting Relief to Employers and Plan Sponsors

As background, ALEs are defined in the ACA as employers that employed, on average, 50 or more full-time employees, including full-time equivalents, in the prior calendar year. ALEs with either fully insured or self-insured health plans are required under Section 6056 of the Code to file and furnish Forms on behalf of full-time employees (Section 6056 Reporting).

Employers sponsoring self-insured plans, including small or non-ALE employers, insurers and multiemployer plans (“MEC Providers”) are required under Section 6055 of the Code to file and furnish Forms on behalf of all enrolled plan participants (Section 6055 Reporting). While ALEs that sponsor self-insured plans can complete both Section 6055 and 6056 Reporting using the Forms 1094/1095-C, non-ALE MEC Providers must use Forms 1094/1095-B.

The Final Rules make the following changes to existing reporting requirements for ALEs and sponsors of self-insured plans:

Automatic Extension Relief for Furnishing Forms 1095-C

The Final Rules provide that ALEs will have a permanent, automatic 30-day extension to furnish the Forms 1095-C. This will extend the furnishing deadline from January 31 to March 2 (March 3 if a leap year). Further, if March 2 falls on a weekend day or legal holiday, the regulations provide that the Forms are due on the next business day.

Alternative Method of Furnishing Forms 1095-B/C to Part-time and Non-Employees for Self-Insured Plans

The Final Rules also provide that an employer sponsoring a self-insured plan is not required to send Forms 1095-B/C to part-time and non-employees enrolled in the plan, as long as the employer posts a “clear and conspicuous notice” in a location on its website that is reasonably accessible to all employees and other applicable individuals, stating that individuals may receive a copy of their Form upon request. The notice must:

- be written in plain, non-technical terms and in a font size large enough (including any visual clues or graphical figures) to call to a viewer’s attention that the information pertains to tax statements reporting that individuals had health coverage;
- include an email address, a physical address where the individual can send his/her request, and a telephone number where individuals can contact the employer with questions; and
- be posted by March 2 (or other date described above, if applicable) and retained in the same website location through October 15 of the year following the calendar year to which the statements relate (or the 1st business day after October 15, if October 15 falls on a Saturday, Sunday, or legal holiday).

If the Form is requested by any such individual, the employer must also furnish the Form to such individuals within 30 days of the request. Notably, this relief does not apply with respect to full-time employees.

Clarification Regarding Definition of “Minimum Essential Coverage”

The Final Rules also clarified that the definition of “minimum essential coverage” for purposes of these ACA information reporting requirements does not include Medicaid coverage for COVID-19 testing and diagnostic services under a government sponsored program. This was done to ensure that an individual’s eligibility for that type of Medicaid coverage for one or more months does not prevent that individual from being eligible for a premium tax credit on an Exchange. It should be noted that these Medicaid-specific rule changes apply for months beginning after September 28, 2020.

How Do the Final Rules Change the Rules Applicable to Penalty Relief? What Was the “Good Faith” Transition Relief That Has Been Eliminated and What Penalty Relief Remains?

The Final Rules confirm that “good faith” penalty relief will no longer be applicable after the 2020 calendar year. As background, beginning with the 2015 calendar year, the IRS did not impose penalties on reporting entities for Forms 1094/5-B and 1094/5-C if they could show that they made good faith efforts to comply with the information reporting requirements. The IRS indicated in Notice 2020-76 and in the preamble to the 2021 proposed regulations that this relief would be discontinued after 2020. The Final Rules permanently discontinue this “good faith” relief for years after calendar year 2020.

The IRS believes that the “reasonable cause” exception (defined in Code Section 6724), which provides that penalties will not be imposed if a taxpayer can show that the reporting failure is due to “reasonable cause and not willful neglect,” is sufficient relief from penalties for those filers that fail to timely or accurately complete their reporting requirements.

Additionally, it should be noted that since the IRS has no authority over state reporting rules, the new Final Rules do not provide any kind of relief from those requirements, so timely reporting should still be made according to the deadlines for those states.

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