

compliance ALERT

IRS Releases Final Forms and Instructions for 2020 ACA Information Reporting

October 23, 2020

The IRS recently released final 2020 1094/1095-B and C forms and instructions to be used for completing Affordable Care Act (ACA) information reporting in early 2021 (for the 2020 calendar year's reporting). With the exception of information related to individual coverage health reimbursement arrangements ("ICHRA"), the forms and instructions are mostly unchanged from 2019.

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 large employers that employed 50 or more full-time employees and full-time equivalents in the prior calendar year (called "applicable large employers" or "ALEs"). Most employers will be filing the C Forms with the IRS, as well as distributing these forms to their full-time employees.

How are the 2020 Final Forms and Instructions Different from the 2019 Forms and Instructions?

The new 2020 final instructions and forms (for both the B Forms and C Forms) make only a small number of substantive changes to the 2019 instructions and forms, and do not provide for any new COVID-19-related penalty relief despite the dramatic changes that many employers and plan sponsors experienced in 2020 due to the pandemic.

The changes to the instructions and forms are designed primarily to accommodate reporting for the new ICHRAs. Specifically, the changes are as follows:

- **Form 1094-C:** The 2020 instructions confirm that an offer of ICHRA coverage counts as an offer of minimum essential coverage for purposes of Code § 4980H(a).
- **Form 1095-C:** Line 14 codes will indicate information about ICHRA coverage offered to employees, including:
 - the part-time or full-time status of the employee receiving the offer;
 - whether ICHRA coverage was also offered to a full-time employee's spouse and dependents;
 - affordability of ICHRA coverage offered to a full-time employee; and
 - whether the employee's primary residence or employment site was used to determine affordability. It should be noted that if the ALE indicated that the employee received an ICHRA offer, the employee's age as of January 1, 2020, must be entered in a

SYNOPSIS

- The 2020 instructions contain new rules regarding new individual coverage health reimbursement arrangements (ICHRAs).
- Otherwise, the instructions do not contain significant changes from prior years.
- Filing of 2020 Forms 1094-C and 1095-C is due by March 1, 2021 (paper) or March 31, 2021 (electronic).
- Furnishing of Form 1095-C is due by March 2, 2021.

new field in Part II of the form. If an affordable ICHRA was offered to a full-time employee, the zip code for the employee's primary residence or employment site will be entered on line 17. The instructions explain how age and zip code information (in combination with the ALE's ICHRA contributions) is used to calculate a full-time employee's required contribution for line 15.¹

- **Form 1095-B:** A new Code G will be entered on line 8 to identify an ICHRA as the source of employer-sponsored coverage.

The following changes reflect the new requirements that are NOT applicable to ICHRAs:

- **Form 1095-C:** Completion of the "Plan Start Month" box will now be mandatory on Form 1095-C for the first time.
- **Form 1095-C:** The Form 1095-C instructions now note that the Code § 4980H(b) affordability threshold for plan years beginning in 2020 is 9.78%.
- Both sets of instructions indicate increased penalties for the 2020 reporting year (discussed below).

Where Can I Download the Final Forms and Instructions?

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

2020 Final Forms:

- [Final Form 1094-C >>](#)
- [Final Form 1095-C >>](#)
- [Final Form 1094-B >>](#)
- [Final Form 1095-B>>](#)

2020 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?

As explained in recent [IRS guidance](#) (and [our recent eAlert](#)), the 2020 Forms 1095-C and 1095-B must be furnished to employees by March 2, 2021 (the original deadline January 31, 2021), and must be filed with the IRS by February 28, 2021 if filed on paper, and by March 31, 2021, if filed electronically. Electronic filing is required for entities filing 250 or more forms.

What are the Penalties for Noncompliance?

Both sets of instructions indicate indexed penalty increases for reporting failures from \$270 to \$280 per return, with calendar-year maximum penalties increasing from \$3,339,000 to \$3,392,000 (this maximum penalty amount is separately applicable to both filing and furnishing penalties).

What Should Employers and Plan Sponsors Do Next?

Employers should keep in mind that, aside from the recently -announced extension of the deadline for furnishing the forms, there is relatively little relief available to plan sponsors in 2020, and no relief at all that is expressly designed to help employers that suffered from pandemic-related difficulties.

More specifically, the lack of COVID-19 relief is particularly challenging for employers that initiated layoffs, furloughs, reductions-in-hours, reductions-in-force, and other similar types of workforce changes during the pandemic, as well as for those employers with less than 500 employees that were subject to the FFCRA's expanded leave provisions, given that employees may have retained "active employee" status during such workforce changes or leave periods, and that employers may have needed to (but unfortunately, in many cases, did not) track hours and offer coverage to applicable employees during those time periods. If you have any questions or concerns about your organization's 2020 reporting, Corporate Synergies' benefits consultants and account managers are prepared to guide your organization through this process.

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

¹The employee's contribution is based on the lowest-cost silver plan for the employee's age offered through an Exchange for the zip code of the employee's primary residence (or primary site of employment if the ALE elects to use an applicable safe harbor). The instructions warn that for non-calendar-year plans, or employees who become eligible for the ICHRA in the middle of the plan year, the employee's age reported in Part II may not be the applicable age to calculate ICHRA affordability or the amount reported on line 15.