

compliance ALERT

IRS Issues Final 2021 ACA Information Reporting Forms; Good Faith Penalty Relief Ends

November 19, 2021

Action Required:

- Review changes
- Prepare to comply with applicable filing and furnishing deadlines

The IRS recently released final 2021 Forms 1094/1095-C and B, and [draft instructions](#) to be used for completing Affordable Care Act (ACA) information reporting in early 2022 (for the 2021 calendar year's reporting).

The Forms include two new additional codes related to individual coverage health reimbursement arrangements ("ICHRA"). Maximum penalties have been increased and good-faith penalty relief is no longer offered. Otherwise, the 2021 forms and instructions are mostly unchanged from 2020.

What Should Employers and Plan Sponsors Do Next?

Given the extra scrutiny that the IRS may be placing on errors and oversights this year as a result of the elimination of the good-faith penalty relief, employers and plan sponsors should take extra time to make sure that they are prepared to file and furnish the Forms 1094/1095-C on time for the 2021 calendar year.

When are the Forms due to the IRS and how is this Changing?

For past reporting years, the IRS offered an automatic extension for furnishing statements to employees extending the due date from January 31 to the beginning of March. **For the 2022 ACA reporting, no extensions of deadlines have been announced, nor are they expected.**

The 2021 filings and distributions are generally due:

Furnishing of Forms 1095-C to employees:	January 31, 2022
Paper submission of Forms 1094-C and 1095-C to the IRS (for employers submitting < 250 forms):	February 28, 2022
Electronic submission of Forms 1094-C and 1095-C to the IRS (required for employers submitting 250 or more forms):	March 31, 2022

Where Can I Find Copies of the Final ACA Information Reporting Forms?

The final 2021 forms are available on the IRS website at the links below:

Reporting Forms	Transmittal Forms
1095-C	1094-C
1095-B	1094-B

↓ Full Explanation Follows ↓

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The IRS recently released final 2021 Forms 1094/1095-C and B, and [draft instructions](#) to be used for completing Affordable Care Act (ACA) information reporting in early 2022 (for the 2021 calendar year's reporting).

With the exception of two new additional codes related to individual coverage health reimbursement arrangements ("ICHRA's"), the unavailability of good-faith penalty relief, and an increase in the maximum penalties, the 2021 forms and instructions are mostly unchanged from 2020.

Which Employers and Plan Sponsors are Coverage Providers? Which Entities File and Furnish Forms 1095-C and Which Entities File and Furnish Forms 1095-B?

As background, Forms 1094-B and 1095-B are generally filed by health insurers and small employers with self-insured health plans and the Forms 1094-C and 1095-C are generally filed by applicable large employers (ALEs). ALEs are employers that employed 50 or more full-time and full-time equivalent employees in the prior calendar year. Most employers will be filing the C Forms with the IRS, as well as distributing these forms to their full-time employees.

What are the New Codes?

Two new Series 1 Codes were added to the list of codes that can be inserted into Line 14 of the Form 1095-C or B:

- **Code 1T:** This code applies when an ICHRA was offered to an employee and spouse *without dependents*. The affordability of the plan was determined using the **zip code of the employee's primary residence**.
- **Code 1U:** This code applies when an ICHRA was offered to an employee and spouse *without dependents*. The affordability of the plan was determined using the **zip code of the employee's primary employment site**.

What is the Good Faith Penalty Relief and what is changing?

For ACA reporting years 2015 through 2020, the IRS provided penalty relief when ALEs reported incorrect or incomplete information on a return or statement if those entities could show they made good faith efforts to comply with the information reporting requirements for the applicable year. This relief applied for both reporting requirements, that is, to the requirement of furnishing the forms to employees, and filing them with the IRS. Additionally, this relief applied to missing and inaccurate taxpayer identification numbers (TINs) and dates of birth, as well as other information required on a return or statement.

As announced previously in [Notice 2020-76](#), the IRS will no longer be providing the good-faith effort penalty relief for the 2021 and subsequent reporting years ([discussed in our prior eAlert](#)). Consequently, employers will need to make sure that their data collection efforts and reporting contain the correct information, including accurate TINs, identification numbers, dates of birth, and other information contained in the forms.

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How are the Penalties Changing?

Although the per-failure penalty remains at \$280, the maximum annual penalties reflect indexed increases. Specifically, the maximum penalty under IRC sections 6721 (for filing violations) and 6722 (for furnishing violations) increased from \$3,392,000 in 2020 to \$3,426,000 in 2021.

When are State Individual Mandate Reporting Filing Deadlines?

Several states have individual mandate reporting requirements that use the same or similar types of forms to the ACA's Forms 1094/1095-C and B, including California, the District of Columbia (D.C.) and New Jersey. Most of these state filings are due by March 31, 2022, except D.C., which is due by April 30, 2022. The Massachusetts Health Insurance Responsibility Disclosure (HIRD) state filing deadline is December 15 annually, and the MA 1099-HC is required to be furnished to employees by January 31, 2022.

Where Can I Find Copies of the Final ACA Information Reporting Forms?

The final 2021 forms are available on the IRS website at the links below:

Reporting Forms

[1095-C](#) — Used by ALEs, whether fully insured or self-funded, to detail their offer of coverage so as to avoid potential employer mandate penalties. Completed for every full-time employee, furnished to each employee and submitted to the IRS. Self-insured ALEs also must complete a Form 1095-C for any part-time employees who are enrolled in coverage.

[1095-B](#) — Used by insurers and small, self-funded employers to provide actual enrollment information of employee and family members enrolled in minimum essential coverage.

Transmittal Forms

[1094-C](#) for filing Forms 1095-C to the IRS.

[1094-B](#) for filing Forms 1095-B to the IRS.

What Should Employers and Plan Sponsors Do Next?

Given the extra scrutiny that the IRS may be placing on errors and oversights this year as a result of the elimination of the good-faith penalty relief, employers and plan sponsors should take extra time to make sure that they are prepared to file and furnish the Forms 1094/1095-C on time for the 2021 calendar year. ■

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