

compliance ALERT

Proposed Rule Extends ACA Deadline for Furnishing Forms 1095-C/1095-B

December 3, 2021

Action Required:

- Review relevant Forms 1095-C/1094-C and 1095-B/1094-B
- Prepare to comply with applicable filing and furnishing deadlines

The IRS recently issued a [proposed regulation](#) (the “Proposed Rule”) that provides an automatic 30-day extension of the deadline for employers and other coverage providers to furnish Affordable Care Act (ACA) Forms 1095-C/1095-B to individuals for the 2021 reporting year and beyond.

When Does the Proposed Rule Go into Effect? What are the new Deadlines?

While the Proposed Rule, if finalized, would become effective for the 2022 calendar year, the IRS has indicated that employers and coverage providers may rely on the Proposed Rule for the 2021 Forms (that is, due in 2022 for the 2021 calendar year).

Accordingly, the deadline to furnish 2021 Forms to individuals has been automatically extended from January 31, 2022, to March 2, 2022.

What Should Employers and Plan Sponsors Do Next?

While the 30-day extension gives employers and plan sponsors a little more breathing room for the 2021 Forms 1095-C/1094-C and 1095-B/1094-B, the filing deadlines remain unchanged, and given that good faith penalty relief is no longer available, employers should take the time needed now to review their forms and make sure that they are accurate before these deadlines early next year.

↓ Full Explanation Follows ↓

Proposed Rule Extends ACA Deadline for Furnishing Forms 1095-C/1095-B

The IRS recently issued a [proposed regulation](#) (the “Proposed Rule”) that provides an automatic 30-day extension of the deadline for employers and other coverage providers to furnish Affordable Care Act (ACA) Forms 1095-C/1095-B to individuals for the 2021 reporting year and beyond. (While the rule is still in “proposed” form, the IRS has indicated that employers and other entities furnishing the forms can rely on the Proposed Rule prior to it being finalized.)

Additionally, the Proposed Rule would also allow certain small, self-insured plan sponsors, insurers and other entities providing minimum essential coverage (called “MEC Providers”) an alternative method for furnishing the forms, as long as the penalty for failing to meet the ACA’s individual shared responsibility rules (“Individual Mandate”) remains at zero \$(0) dollars.

How Does this Change the Law? How will Extensions Work Going Forward?

In past years, the IRS would repeatedly issue extensions of the furnishing deadline through guidance (for example, most recently in [IRS Notice 2020-76](#)). Now, as a result of the Proposed Rule, the IRS will permanently allow a 30-day “automatic” extension of the regular January 31 deadline for furnishing these forms.

When Does the Proposed Rule Go into Effect? What are the new Deadlines?

While the Proposed Rule, if finalized, would become effective for the 2022 calendar year, employers and coverage providers may rely on the Proposed Rule for the 2021 Forms (that is, due in 2022 for the 2021 calendar year). Accordingly, the deadline for the 2021 Forms has been automatically extended from January 31, 2022, to March 2, 2022.

Will the Filing Deadlines Be Extended as Well?

No. The Proposed Rule does not extend the filing deadlines to the IRS for the Forms 1095-C/1094-C and 1095-B/1094-B. These will remain February 28 for paper filings or March 31 for electronic submissions.

Will the Proposed Rule Bring Back “Good Faith” Penalty Relief?

No. The Proposed Rule will not bring back the “good faith” penalty relief and apply it to the 2021 reporting year, as discussed in our recent eAlert ([here](#)).

How Does the Alternative Method of Furnishing the Forms Work?

Under the Proposed Rule, MEC Providers (including employers with fewer than 50 full-time/full-time equivalent employees in the prior calendar year) sponsoring self-insured plans, will not be penalized by the IRS for failure to furnish a Form 1095-B if they use the alternative method for furnishing individual statements. Additionally, applicable large employers (ALEs) under the ACA (employers with 50 or more full-time/full-time equivalent employees in the prior calendar year) sponsoring self-insured plans may also use the alternative method, but not for full-time employees (they may use this method for furnishing the forms to covered part-time or former employees, for example).

A MEC Provider can take the following steps to furnish the forms to individuals under the alternative method:

- The MEC Provider must post a clear, conspicuous notice on its website. The website notice — either on the main page or through a link on such page — must inform individuals that they can obtain a Form 1095-C or 1095-B on request, provide an email and a physical address for these requests, and supply a telephone number for questions.
- The MEC Provider must retain the website notice until October 15 of the year after the calendar year to which the statement relates.
- The MEC Provider must supply the actual form (that is, Form 1095-C or 1095-B) within 30 days of receiving a request. Additionally, the MEC Provider may furnish the form electronically if certain requirements are met.

The alternative method is available only for years in which the ACA Individual Mandate's penalty payment is zero \$(0).

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