

update

Compliance News for Multiemployer Plans

December 6, 2018

Affordable Care Act Reporting Requirements Remain, with One Extended Deadline

Despite significant legislative efforts to “repeal and replace” the Affordable Care Act, and despite some changes that have been enacted into law, the Act’s tax-related reporting requirements for “large” employers¹ and plan sponsors remain in place. Those requirements consist of distributing forms to full-time employees and plan participants about their health coverage, as well as filing the forms with the Internal Revenue Service (IRS). Large employers and plan sponsors will need to comply with those reporting requirements this year in the same manner as in previous years.

Reporting entities will have a bit more time to distribute Forms 1095-B or 1095-C (as applicable)² to employees and plan participants now that the furnishing deadline has been moved from January 31, 2019 to March 4, 2019.³ The deadline for filing those forms (along with the applicable transmittal form, 1094-B or 1094-C)⁴ with the IRS has not changed. They must be filed by February 28, 2019 (if filing on paper) or by April 1, 2019 (if filing electronically).⁵

Background on the Reporting Requirements

The Act’s reporting requirements assist the IRS in enforcing the Act’s employer shared responsibility penalty (the “employer penalty”),⁶ the individual shared responsibility penalty (the “individual mandate”)⁷ and the premium assistance tax credits available to many individuals who purchase their own coverage through the federal Marketplace and state Exchanges.

¹ For this purpose, a large employer is one with at least 50 full-time employees (including equivalents).

² Form 1095-B is used by self-insured multiemployer plans to report enrollment in the plan. Form 1095-C is used by large employers (including a multiemployer plan that itself is a large employer).

³ This extension was announced on November 30, 2018 in [Notice 2018-94](#).

⁴ Form 1094-B is the cover sheet that is used when a reporting entity files Forms 1095-B. Form 1094-C is the cover sheet that is used when a reporting entity files Forms 1095-C.

⁵ The usual filing deadline is March 31, but as this day falls on a weekend in 2019, the filing date becomes April 1, 2019.

⁶ Under the Act, large employers who do not provide certain coverage to full-time employees may owe a tax known as the employer shared responsibility penalty.

⁷ This is the tax penalty for not having health coverage.



Health Compliance News Highlights:

- The Internal Revenue Code (IRC) provisions that require reporting by plan sponsors and large employers (IRC Sections 6055 and 6056) have *not* been amended by Congress.
- The IRS has extended the due date for furnishing the 2018 Form 1095-B and the 2018 Form 1095-C, from January 31, 2019, to March 4, 2019.
- Fortunately, the IRS forms and instructions for the 2018 reporting year (for distribution and filing in early 2019) are nearly identical to the forms and instructions for prior years.
- Employers and plan sponsors will need to wait and see if Congress or the IRS make any changes to the requirements in the future.

Large employers are required to report each calendar year on their offers of coverage to their full-time employees. Plan sponsors of self-insured plans are required to report enrollment in plan coverage for the calendar year, for each plan participant and enrolled family members. Reporting by large employers is done using the Form 1095-C. Health insurers use Form 1095-B to report enrollment in insured group coverage.

IRS Forms and Instructions for the 2018 Reporting Year

The forms and instructions for the 2018 reporting year (for distribution and filing in early 2019) are nearly identical to the forms and instructions for prior years.⁸ The instructions include minor adjustments to dates and to indexed penalty amounts. There is a minor formatting change in how reporting entities will enter certain names (*i.e.*, name of employee on the 1095-C, name of responsible individual on the 1095-B, names of covered individuals on both forms).

The forms now include vertical lines to split first name/middle initial/last name into three sections. The 2018 Form 1095-B also asks for middle *name* (rather than middle initial). In prior years, there was a single space into which names were entered.

Importantly, the special rules governing how contributing employers do their reporting have not changed. These rules apply when:

- A large employer is required by a collective bargaining agreement or participation agreement to contribute to a multiemployer plan;
- The multiemployer plan provides minimum value and affordable coverage to participants; and
- The plan offers coverage to dependent children under age 26.

When completing the Form 1095-C, the contributing employer will continue to use the 1H “no offer”/2E “multiemployer interim rule relief” coding combination for Lines 14 and 16. This allows the large employer to get “credit” for the coverage offered to the employee through the multiemployer plan (under eligibility rules set by the plan) without having to obtain any information about when or whether that specific employee qualified for coverage under the plan.

Deadlines and Penalty Relief for 2018

As noted on page 1, the deadline for distributing Forms 1095-C and 1095-B to employees and plan participants is now March 4, 2019. The IRS filing deadline varies depending on whether the forms will be filed on paper or electronically. Filers must file electronically if filing 250 or more of the same form.

IRS Notice 2018-94, which extended the deadline for distributing Forms 1095-C and 1095-B to employees and plan participants, included relief from the penalties that could be assessed for distributing or filing incorrect information returns. As in previous years, the IRS will not impose penalties for incorrect or incomplete information when reporting entities act in good faith and distribute and file the forms on time.

Reporting Year 2019

With respect to next year (2019 offers/enrollment reported in early 2020), keep in mind that the IRC provisions that require the reporting (IRC sections 6055 and 6056) have not been amended by Congress. However, with the individual mandate being “zeroed out” as of January 1, 2019, it is possible that the IRS could make some changes to the forms or to the process. IRS Notice 2018-94 states that Treasury and IRS are studying whether and how the reporting requirements should change for future years.

Reporting entities will continue to distribute and file these information returns the same way they did last year.

⁸ The forms and instructions are available on the IRS website, by inserting the applicable form number: <https://www.irs.gov/forms-instructions>.

Implications for Plan Sponsors and Large Employers

This is the fourth year that large employers and plan sponsors have been required to prepare, distribute and file these information returns. They, and their service providers, should be used to the process that needs to be followed to comply with these requirements. This time, however, they may need to make a slight adjustment in their reporting systems so that names are split into multiple data fields instead of the prior single field. The extension of the furnishing deadline to March 4, 2019 should help make the overall process less burdensome.

How Segal Can Help

Segal works with trustees and their fund counsel on compliance issues. Segal can help trustees understand these reporting requirements and what they need to do to comply with them.

Questions?

For more information about how the Affordable Care Act's reporting requirements may affect your plan, please contact your Segal consultant.

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