

IRS Grants More Time to Distribute 1095-C Forms

Legal Notice from Monahan Law Office

From: Monahan Law Office [mailto:marilyn@monahanlawoffice.com]
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To: dmcociu@advancedbenefitconsulting.com
Subject: Extension! IRS Grants More Time to Distribute 1095-C Forms



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Dear Dorothy:

Extension!

We have some good news for those employers that have been worried about completing and furnishing the 2018 Forms 1095-C on time. The IRS has granted employers an extension of time to distribute these forms to employees. (IRS Notice 2018-94.) The original deadline was January 31, 2019, but employers now have until **March 4, 2019**, to furnish the forms. Filing deadlines remain unchanged, however:

Employer Obligation	Due Date
Furnishing 1095-Cs to Employees * Deadline Extended	January 31, 2019 * March 4, 2019
Filing 1094-C and 1095-Cs with the IRS (on paper)	February 28, 2019

Filing 1094-C and 1095-Cs with the IRS (electronically) (required if filing ≥250 1095-Cs) April 1, 2019

The extension was granted because the IRS determined, following consultation with stakeholders, that "a substantial number of employers, insurers, and other providers of minimum essential coverage need additional time . . . to gather and analyze the information and prepare the 2018" forms to be furnished to individuals.

Under the Affordable Care Act (ACA), an "applicable large employer" (ALE) must furnish a Form 1095-C to each of its full-time employees (as well as part-time employees, if the employer is self-funded and the part-time employee has enrolled in coverage). The ALE must also file these forms with the IRS, along with a Form 1094-C. Small employers that offer self-funded coverage (for example, a level funded plan) must furnish employees with a Form 1095-B, and must file those forms, along with a Form 1094-B, with the IRS by the deadlines noted above. The extension for furnishing the Form 1095-C also applies to the 2018 Form 1095-B.

Failure to furnish and file the forms on time may result in penalties. Even if the employer misses a deadline, the employer should proceed to distribute and file the forms as soon as possible. "The [IRS] will take such furnishing and filing into consideration when determining whether to abate penalties for reasonable cause."

When an ALE offers fully insured group health coverage to its employees, the ALE distributes the Form 1095-C to its full-time employees, and the insurer/HMO distributes the Form 1095-B to enrolled employees. Due to the extension, employees may not receive their 2018 Forms 1095-C or 1095-B from their employer or insurer before they file their 2018 Form 1040. Although they are not attached to the Form 1040, the 1095 forms should be given to the employee's tax preparer, and maintained in the employee's tax records, because they demonstrate that the employee was offered and enrolled (or not) in health coverage for the 2018 tax year; if the employee does not have coverage for 2018, the employee may have to pay an individual shared responsibility penalty. Nonetheless, the IRS advises that an employee does not have to wait to receive the 1095 forms before filing their 1040.

Good-Faith Relief!

Notice 2018-94 contained more good news from the IRS: The IRS is extending "good-faith transition" relief if employers furnish and file the 1094 and 1095 forms on time, but the information provided is "incorrect and incomplete." This IRS has extended this relief each year the 1094/1095 reporting requirement has been in place, and has now extended it for one more year. The IRS explained: "Treasury and the [IRS] recognize the ongoing challenges involved in complying with these reporting requirements and have determined that this relief is also appropriate for 2018."

To obtain the relief, employers must furnish and file the forms on time, and must show a good faith effort to comply with the governing regulations. The notice states that, in "determining good faith, the [IRS] will take into account whether an employer or other coverage provider made reasonable efforts to prepare for reporting the required information to the [IRS] and furnishing it to employees and covered individuals, such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the [IRS] or testing its ability to transmit information to the [IRS]."

The IRS concluded Notice 2018-94 with this teaser for insurance companies: "Because the individual shared responsibility payment is reduced to zero for months beginning after December 31, 2018, Treasury and the [IRS] are studying whether and how the reporting requirements under section 6055 should change, if at all, for future years." Section 6055 is the reporting requirement that applies to insurers, which fulfill the requirement by distributing Forms 1095-B to indicating whether an individual is enrolled in coverage.

Plan Limits

The IRS has also recently released updated contribution and exclusion limits for certain benefit plans, including the following:

Type of Plan/Limit	2019	2018
Health Flexible Spending Arrangement (FSA) Maximum Employee Contribution	\$2,700	\$2,650
Transportation Fringe Benefit Monthly Exclusion (Parking/Transit Pass)	\$265	\$260
Adoption Assistance Programs Maximum Exclusion	\$14,080	\$13,840
Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) Maximum Reimbursement	\$5,150 (\$10,450 for family coverage)	\$5,050 (\$10,250 for family coverage)
Maximum Employee Deferral for a 401(k) or 457(e)(15) Plan	\$19,000	\$18,500

Remember that any amendments to a cafeteria plan must be made in writing and prospectively, and that employee elections must be made before the start of the plan year.

Wildfires

The recent wildfires in California have caused many individuals and businesses significant loss and terrible tragedy. Employees and employers may have questions about the impact of such a disaster on benefits. The Department of Labor has issued a set of "FAQs for Participants and Beneficiaries following the 2018 California Wildfires." The FAQs provide information on the potential impact of the fires on health and retirement benefits. The FAQs are available at this link: <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/2018-california-wildfires.pdf>

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