



Your Compliance Guide for Employee Benefits

Here We Go Again: IRS Extends Information Reporting Deadline

Under the Affordable Care Act (ACA) an Applicable Large Employer (ALE) must report its offer of affordable coverage to its full-time employees. This reporting is achieved by providing a Form 1095-C to full-time employees (and any covered individual under a self-insured plan). In order for an individual to demonstrate having minimum essential coverage (MEC) and avoid a tax penalty under the individual mandate, Insurers and small employers with self-insured health coverage, must provide a Form 1095-B to any covered responsible individual.

In 2015 and 2016 the Internal Revenue Service (IRS) extended the deadline for issuing certain required reporting forms. Recently, the IRS issued [Notice 2018-06](#) which again provides a similar extension regarding the reporting of health coverage provided during the 2017 calendar year. Just as before, this Notice provides an automatic 30-day extension to the deadline for issuing Forms 1095-C and 1095-B from January 31, 2018 to March 2, 2018.

Since the IRS is providing this extension to all employers, no additional extensions can be requested or submitted using Form 8809. Any extensions that were already requested by an employer will not receive an additional extension.

However, a word of caution, the filing which is due to the IRS *has not been extended*. The due date for filing Form 1094-C to the IRS, with copies of Form 1095-Cs provided, remains at February 28, 2018 if not filing electronically (less than 250 Forms). If filing 250 or more Forms, and electronically, the deadline is April 2, 2018. The ability to request a 30-day extension for this remains an option.

As in the previous extensions, this notice also provides certain “good-faith compliance” with the reporting rules. Substantial penalties may be avoided where an employer or an Insurer can show that they have made good-faith efforts to comply with the information-reporting requirements (both for furnishing to individuals and for filing with the IRS). Another note of caution however, this relief only applies to missing and inaccurate taxpayer identification numbers and dates of birth, as well as other information required on the return or statement. Relief is not provided in the case of reporting entities that do not make a good-faith effort to comply with the regulations or that fail to file an information return or furnish a statement by the due dates (as extended under the rules described above).

An employer needs to be aware of the importance of the receipt of these documents by their employees. The extension of the reporting deadlines should not be interpreted as a repeal of the ACA’s individual mandate. The individual mandate, and the penalty for not having “minimum essential coverage” remains in effect for 2017 and 2018. The Notice confirms that employees need not wait to receive either a Form 1095-C or 1095-B before filing their tax returns. Instead, an employee may rely on information provided by their employer.

In summary, the IRS again has provided an extension for the distribution of Forms 1095-C and 1095-B to full-time employees and covered individuals. An extension has been granted from January 31, 2018 until March 2, 2018. This extension however, is not applicable for Forms 1094-C and 1094-B which must be filed with the IRS. In addition to extending the distribution deadline, the IRS continued the interim good faith compliance standard that was in effect for the 2015 and 2016 years of ACA reporting.

January 8, 2018

Increase to Business Mileage Reimbursement

The business mileage reimbursement rate is used by some employers for computing employee reimbursement amounts when an employee operates a motor vehicle not owned by the employer for the employer's business purposes. The Internal Revenue Service (IRS) is responsible for establishing the standard mileage rate.

Recently, the IRS provided that beginning on January 1, 2018, for all miles of business use, the standard mileage rate for transportation or travel expenses is 54.5 cents per mile (up slightly from 53.5 cents in 2017), according to [IRS Notice 2018-03](#).

There are other reasons for which an individual can be reimbursed for mileage such as when rendering gratuitous services to a charitable organization. If an individual or employer has questions about the reimbursement of mileage, or use of a personal vehicle, the advice of tax counsel should be sought.

ERISA: Penalty Adjustments Announced

The Employee Benefits Security Administration (EBSA) is the enforcement arm for the Department of Labor (DOL) as it relates to employee benefit plans. The EBSA enforces ERISA's fiduciary, reporting and disclosure provisions. Civil monetary penalties can be assessed for compliance failures of any of these requirements. Penalties however, become less effective when they have not been raised to keep up with inflation. Therefore, based on the Inflation Adjustment Act, new penalty amounts are adjusted annually in January.

Increased penalty limits for 2018 are scheduled to be effective as of January 2, 2018 when they will be published in the Federal Register. Employers need to be aware of these penalties as many are applicable to employee benefits they offer.

Below is a brief table outlining some of the increases:

ERISA Requirement	Penalty Effective 08/01/2017	Penalty Effective After 01/13/2018
Failure or refusal to file annual report (Form 5500).	\$2,097 a day	\$2,140 a day
Failure to furnish employee benefit plan documents to DOL upon request (including plan and trust documents, summary plan description, summary of material modifications, or a collective bargaining agreement).	\$149 a day (but no greater than \$1,496 per request)	\$152 a day (but no greater than \$1,527 per request)
Failure by employer to inform employees of Medicaid/CHIP coverage opportunities.	\$112 a day per participant or beneficiary	\$114 a day per participant or beneficiary
Genetic Information Nondiscrimination Act violation by group health plan sponsor/health insurance issuer.	\$112 a day per participant or beneficiary	\$114 a day per participant or beneficiary
Failure to provide Summary of Benefits and Coverage to participant or beneficiary of group health plan.	\$1,105 per participant or beneficiary	\$1,128 per participant or beneficiary

Although the DOL does not typically assess the maximum permissible penalty under the law, the looming penalties may spur plan sponsors and administrators to more closely scrutinize their compliance efforts.

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