



It's a Three-Peat: ACA-Reporting Deadline Extended Once Again

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The Affordable Care Act (“ACA”) imposed additional reporting requirements on health coverage providers (including self-funded employer plans) and “applicable large employers” (those with 50 or more full-time employees). For health coverage provided during both 2015 and 2016, the IRS extended the deadline for issuing certain of the required reporting forms. In [Notice 2018-06](#), the IRS has now granted a similar extension with respect to reporting health coverage provided during calendar-year 2017.

As explained in our [November 21, 2016, article](#), the extension of the deadline for providing forms applicable to 2016 coverage came in [Notice 2016-70](#). That Notice granted coverage providers and employers 30 more days to issue the appropriate ACA-reporting forms to their insureds and full-time employees. Rather than January 31, 2017, those Forms 1095-B and 1095-C were due by March 2, 2017. In addition, the IRS extended by one year the period of “good-faith compliance” with the reporting rules.

In the latest Notice, the IRS has granted virtually identical relief for 2017 – including a further one-year extension of the “good-faith compliance” standard. (Indeed, Notice 2016-70 and Notice 2018-06 read virtually verbatim.) As with 2016 coverage, however, the IRS has *not* extended the deadline for coverage providers and employers to transmit these ACA-reporting forms to the IRS.

Based on the relief provided in Notice 2018-06, the deadline for issuing Forms 1095-B and 1095-C with respect to 2017 coverage is now March 2, 2018. But due to this *automatic* 30-day extension, the IRS states that it will no longer grant extension requests submitted on Form 8809.

Unless the IRS grants further relief, coverage providers will still need to file Forms 1094-B with the IRS by April 2, 2018, and employers will still need to file Forms 1094-C by either February 28, 2018 (if done on paper), or April 2, 2018 (if filed electronically). However, the IRS notes that the option of requesting a 30-day extension of this deadline will remain available.

Coverage providers and employers that can show good-faith efforts to comply with these ACA-reporting requirements may avoid the substantial penalties that would otherwise apply. As with the relief granted for 2015 and 2016, however, this relief does not apply to missing or late filings. So coverage providers and employers should continue to work toward meeting these filing deadlines.

Employers should be prepared to answer questions from their employees on this subject. Someone who has read only the headlines might think that the ACA’s individual coverage mandate has been retroactively repealed. That’s not the case. The mandate – along with the potential tax penalty for failing to have “minimum essential coverage” – remains in effect for 2017. In fact, it remains in effect for 2018. So employers may want to caution their employees against dropping their health coverage.

Finally, in view of this latest extension, some employees may file their personal tax returns before they receive a Form 1095-B or 1095-C. Employees may want these Forms either to show that they had “minimum essential coverage” (thereby avoiding the tax penalty) or to qualify for a federal tax subsidy to purchase coverage through an Exchange. This latest IRS Notice repeats last year’s advice that employees need not wait to receive these Forms, but may instead rely on other information provided by their employers. If an employer chooses to provide such information, their employees need *not* attach a copy to their tax returns. However, they should retain the information with their other tax-related records.

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