



ACA INDIVIDUAL STATEMENT DEADLINE AND GOOD-FAITH RELIEF EXTENDED AGAIN

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[IRS Notice 2019-63](#) extends the 2020 deadline from Jan. 31 to March 2 for employers and insurers to furnish individual statements on 2019 health coverage and/or offers of coverage to full-time employees (Forms [1095-B](#) and [1095-C](#)). The notice also extends penalty relief for failure to furnish individual statements in certain cases and for incorrect or incomplete 2019 reports due in 2020. Employers with employees residing in New Jersey, Vermont and Washington, DC, may want to review the implications for reporting requirements under individual coverage mandates in those jurisdictions.

EXTENDED DEADLINE FOR INDIVIDUAL STATEMENTS

Internal Revenue Code Section [6055](#), added by the Affordable Care Act (ACA), requires minimum essential coverage (MEC) providers to furnish an annual statement to covered individuals indicating each month in which they had coverage. MEC providers — such as insurers, multi-employer plans and small self-insured employers — use IRS Form 1095-B to comply with this requirement.

Code Section [6056](#), also added by the ACA, requires applicable large employers (ALEs) to furnish an annual statement relating to their offers of health coverage to full-time employees. ALEs use IRS Form 1095-C for this employer-shared responsibility (ESR) reporting requirement. ALEs sponsoring self-insured group health plans can comply with both the MEC and ESR reporting requirements by furnishing a Form 1095-C to full-time employees and others covered by the group health plan.

[IRS Notice 2019-63](#) extends the 2020 deadline for furnishing Forms 1095-B and 1095-C to covered individuals and employees until March 2. IRS will not grant additional extensions. Neither form is required for individuals to file their 2019 federal tax returns.

IRS filing deadlines unchanged. Sections 6055 and 6056 also requires MEC providers and ALEs to file reports with IRS. Reporters still must meet the Feb. 28 deadline (if filing by paper) or March 31 (if filing electronically) to submit 1095s to IRS, accompanied by the appropriate 1094 transmittal form. However, an automatic 30-day extension of the IRS filing deadline is available by submitting [Form 8809](#) before the relevant due date.

SOME RELIEF FROM FAILURE-TO-FURNISH PENALTIES

IRS Notice 2019-63 provides relief from the penalty for failing to furnish Form 1095-B as required by Section 6055. Insurance carriers and small employers (fewer than 50 full-time employees) sponsoring self-insured plans will not face a penalty for failure to furnish a Form 1095-B if they post a prominent notice on their website and supply a 1095-B within 30 days of receiving a request. The website notice must inform individuals that they can obtain a statement on request, provide an email address and physical address for these requests, and supply a telephone number for questions.

Implications for ALEs With Fully Insured Group Health Plans

The penalty relief has no effect on a fully insured ALE's obligation under Section 6056 to furnish Form 1095-C to full-time employees and submit those statements with a 1094-C transmittal form to IRS. Employers sponsoring fully insured group health plans also may want to determine their carrier's plans for furnishing 1095-B statements. Although the obligation to provide Form 1095-B lies with carriers (which have relief from the failure-to-furnish penalty), employers may receive questions from employees if they don't receive a statement from the carrier. Employers may want to ask their carrier where they should direct employees for more information about the individual statement and how to request a copy.

Implications for ALEs With Self-Insured Group Health Plans

The penalty relief does not apply to ALEs offering self-insured health plans to full-time employees. Any failure by ALE members to furnish Form 1095-C, including Part III, to full-time employees enrolled in self-insured health plans will continue to trigger a penalty. But if a self-insured health plan covers part-time staff or COBRA enrollees, the relief does extend to an ALE's failure to furnish Form 1095-C to any enrollees in the plan who did not qualify as full-time for any month of 2019.

EXTENDED GOOD-FAITH RELIEF FOR REPORTING MISTAKES

Notice 2019-63 extends good-faith relief from certain penalties for ACA coverage reports that have "missing and inaccurate taxpayer identification numbers and dates of birth, as well as other information required on the return or statement." In determining good faith, IRS considers whether an employer made reasonable efforts to meet the reporting requirements, such as gathering and transmitting data to an agent for submission to IRS. Reporters must meet applicable deadlines to show the good-faith efforts required for this relief.

FUTURE CHANGES POSSIBLE

The notice says IRS is considering whether to extend the due date for ALEs to furnish 1095 statements required for ESR reporting to individuals and the good-faith relief for reporting mistakes in future years. What other reporting changes, if any, IRS may be contemplating isn't clear. Individuals no longer face any ACA assessment for failing to have MEC, so they no longer need a 1095 to demonstrate coverage. But the

forms still give IRS information to administer ESR penalties and premium tax credits. Regulators invite comments on these issues.

COORDINATION WITH STATE LAWS

Five states — California, Massachusetts, New Jersey, Rhode Island and Vermont — and Washington, DC, have implemented or enacted individual health coverage mandates. Reporting entities with health plan participants living in these jurisdictions may need to provide Form 1095-B or an alternative form to responsible individuals, despite the new federal relief. Employers with employees residing in these jurisdictions may also have reporting obligations related to the individual coverage mandates.

Here is a brief recap of the reporting requirements related to these local mandates:

- **California.** California's individual coverage mandate begins in 2020, with reporting to the California Franchise Tax Board in 2021. Additional guidance is anticipated before reporting starts.
- **Massachusetts.** Reporting requirements for Massachusetts's individual mandate differ from the ACA's reports and will likely remain unchanged. [Form MA 1099-HC](#) is due to covered Massachusetts residents and the state Department of Revenue by Jan. 31 of each year.
- **New Jersey.** The first annual reports required by New Jersey's individual mandate are due to the state by March 31, 2020. Reporting entities are expected to use the federal forms to fulfill the reporting obligation. Additional guidance may come out before the deadline.
- **Rhode Island.** The individual coverage mandate in Rhode Island begins in 2020, with the first annual reports due in 2021. Reporting entities are expected to file with the state, which will likely provide additional guidance before the first deadline.
- **Vermont.** Residents of Vermont must self-report compliance on their 2019 individual income tax returns beginning in 2020. Vermont may revisit reporting obligations for health insurance carriers and employers, now that reporting entities face no IRS penalty if they do not furnish a Form 1095-B to individuals unless requested.
- **Washington DC.** Reporting related to the city's individual mandate begins in 2020, with the first reports due to covered individuals and the DC Office of Tax and Revenue by June 30. Reporting guidance currently calls for using the federal forms, which may not change despite the federal relief from furnishing Forms 1095-B to covered individuals.

Affected employers should consult with their carriers, third-party administrators and reporting vendors to develop a plan for the specific jurisdiction's reporting obligations. Employers also should watch for additional guidance from the relevant state or city agencies.

RELATED RESOURCES

Non-Mercer Resources

- [Notice 2019-63](#) (IRS, Dec. 2, 2019)
- [Form 8809](#), Application for Extension of Time to File Information Returns (IRS, August 2019)
- [Information Reporting by Applicable Large Employers](#) (IRS)
- [About Form 1095-B, Health Coverage](#) (IRS)
- [About Form 1095-C, Employer-Provided Health Insurance Offer and Coverage](#) (IRS)

Mercer Law & Policy Resources

- [Roundup of Selected State Health Developments — Third-Quarter 2019](#) (Oct. 28, 2019)
- [DC Details Employer Reporting for Individual Health Coverage Mandate](#) (Aug. 20, 2019)
- [California Individual Coverage Mandate Includes Employer Health Plan Reporting](#) (July 16, 2019)
- [New Jersey Posts Update on Health-Coverage Reports Due in 2020](#) (April 16, 2019)
- [Texas Judge Declares ACA Invalid; Appeals Planned](#) (Dec. 17, 2018)

Other Mercer Resources

- [Employers Will Face Difficult Decisions if ACA Ruling Stands](#) (Dec. 17, 2018)
- [ACA Assessment Letters Are Coming](#) (Nov. 16, 2017)
- [IRS Issues More Draft Instructions for 2016 Health Reporting](#) (Aug. 16, 2016)
- [ACA Reporting What Every Employer Should Do Now](#) (Aug. 6, 2014)

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