

## LAW &amp; POLICY GROUP

**GRIST**

## NEW JERSEY POSTS UPDATE ON HEALTH-COVERAGE REPORTS DUE IN 2020

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Starting next year, New Jersey will require employers to report 2019 health-coverage information for covered employees and their dependents residing in the state. The reports for New Jersey tax regulators and residents will mirror the health-coverage information currently required by IRS Forms 1094 and 1095, according to the state's [website](#).

### NEW JERSEY HEALTH-COVERAGE MANDATE AND REPORTING

Employers will file health-coverage forms through New Jersey's Form W-2 [filing system](#). Employers must electronically file 2019 coverage information by Feb. 15, 2020. The same filing requirements apply to all employers — in-state and out-of-state — that withhold and remit New Jersey income taxes for its residents. Regulators [anticipate](#) posting filing instructions in mid-2019.

New Jersey enacted its statewide individual-coverage mandate ([2018 Ch. 31](#)) after Congress reduced any Affordable Care Act (ACA) tax penalty for individuals lacking minimum essential coverage (MEC) to \$0. The New Jersey law will impose state tax penalties on residents that don't maintain MEC meeting [federal standards](#). New Jersey will rely on employer reports of coverage to enforce the state mandate.

### POTENTIAL IMPACT OF ACA LITIGATION

After Congress zeroed out the ACA penalty for individuals, Texas and 19 other Republican-led states sued. They argued that the lack of any tax penalty invalidates the individual mandate since the US Supreme Court originally found the requirement constitutional as type of tax ([Nat'l Fed'n of Indep. Bus. v. Sebelius](#), 567 US 519 (2012)). They also contended that the individual mandate is so integral to the ACA, the entire law must fall if this mandate is unconstitutional.

A Texas federal judge sided with the GOP states, ruling that the lack of any tax penalty for not having coverage invalidates the individual mandate and the entire ACA ([Texas v. United States](#) (N.D. Tex. Dec. 30, 2018)). The case is now before the 5th US Circuit Court of Appeals and may eventually end up at the Supreme Court.

### **NJ Reporting Implications**

If the entire ACA is invalidated, that would eliminate the employer shared-responsibility requirements for health-coverage reporting, along with many other provisions. However, even if the federal government discontinues or substantially alters related ACA reporting forms — IRS Forms [1094-B](#), [1094-C](#), [1095-B](#) or [1095-C](#) — New Jersey will develop similar forms to file with the state and send to New Jersey taxpayers.

### **EMPLOYER PREPARATION**

Employers with New Jersey employees should plan to take these steps:

- Monitor information posted by the state.
- Work with vendors to set up state reporting processes.
- Track ongoing ACA litigation and its impact on the state law.

### **RELATED RESOURCES**

#### **Non-Mercer Resources**

- [NJ Health Insurance Mandate — Information for Employers](#) (NJ Treasury, updated March 19, 2019)
- [Individual Shared-Responsibility Provision — Minimum Essential Coverage](#) (IRS, updated March 29, 2019)
- [Stay and Partial Final Judgment in \*Texas v. United States\*](#) (N.D. Texas, Dec. 30, 2018)
- [Partial Summary Judgment in \*Texas v. United States\*](#) (N.D. Texas, Dec. 14, 2018)
- [2018 Ch. 31](#), Health Insurance Market Preservation Act (NJ Legislature, May 30, 2018)
- [Decision in \*Nat'l Fed'n of Indep. Bus. v. Sebelius\*](#), 567 US 519 (2012)

#### **Mercer Law & Policy Resources**

- [Trump Administration Adjusts Course on ACA Case](#) (March 27, 2019)
- [Texas Judge Declares ACA Invalid; Appeals Planned](#) (Dec. 17, 2018)

#### **Other Mercer Resources**

- [Grab Some Ibuprofen: State Mandates May Create Reporting Headaches](#) (June 20, 2018)

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