



ACA individual statement due date, good-faith relief extended for 2021

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[IRS Notice 2020-76](#) extends the 2021 deadline from Feb. 1 (since the normal Jan. 31 due date falls on a Sunday next year) to March 2 for employers and insurers to furnish Affordable Care Act (ACA) individual statements on 2020 health coverage and/or offers of coverage to ACA 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 what IRS says is the final time — transitional penalty relief for 2020 reports due in 2021 that are completed in good faith but are incorrect or incomplete.

COVID-19 crisis complicates ACA reporting

The COVID-19 pandemic has caused many employers to reduce employee hours or conduct terminations or furloughs. As a result, employers may find reporting and coding coverage offers on Form 1095-C (lines 14 and 16) and determining employees' ACA full-time status particularly complex, so preparing early is advisable.

The [draft 2020 Form 1095-C](#) remains substantially similar to prior year's forms. However, employers sponsoring individual-coverage health reimbursement arrangements (HRAs) will want to take note of the eight new line 14 codes to accommodate employer-shared responsibility (ESR) and premium tax credit reporting of these HRAs. Finally, employers with employees residing in California, Massachusetts, New Jersey, Rhode Island, Vermont and Washington, DC, may want to review the implications for reporting under the individual-coverage mandates in those jurisdictions.

Extended deadline for individual statements

Internal Revenue Code Section [6055](#), added by the 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, multiemployer plans and small self-funded 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 ACA full-time employees. ALEs use IRS Form 1095-C for this ESR reporting requirement. ALEs sponsoring self-funded group health plans can comply with both the MEC and ESR reporting requirements by furnishing a Form 1095-C to ACA full-time employees and others covered by the group health plan.

[IRS Notice 2020-76](#) extends the 2021 deadline for furnishing Forms 1095-B and 1095-C to covered individuals and employees until March 2. IRS will not grant additional extensions. Individuals no longer face any ACA assessment for failing to have MEC, so they do not need either form to demonstrate coverage on their 2020 federal tax returns. However, the forms still give IRS information to administer ESR penalties and premium tax credits.

IRS filing deadlines unchanged. Sections 6055 and 6056 also require MEC providers and ALEs to file 1095 reports with IRS. Reporters still must meet the March 1 deadline (since the normal Feb. 28 due date falls on a Sunday in 2021) for paper filings or March 31 for electronic submissions, 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 2020-76 provides relief from the penalty for failing to furnish Form 1095-B, as required by Section 6055. Insurance carriers and small employers (with fewer than 50 ACA full-time employees) sponsoring self-funded 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 and a physical address for these requests, and supply a telephone number for questions. The reporting entity may furnish a requested statement electronically if certain requirements are met.

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 ACA 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-funded group health plans

The penalty relief does not apply to ALEs offering self-funded health plans to ACA full-time employees. Any failure by ALE members to furnish Form 1095-C, including Part III, to ACA full-time employees enrolled in self-funded health plans will continue to trigger a penalty. But if a self-funded health plan covers part-time staff, COBRA enrollees or retirees, the relief does extend to an ALE's failure to furnish Form 1095-C to any enrollees who did not qualify as ACA full-time employees for any month of 2020.

Last extension of penalty relief for reporting mistakes made in good faith

Notice 2020-76 extends transitional penalty relief for ACA coverage reports that, despite good-faith efforts to complete, 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. IRS states that this is the last year the agency will provide this transitional relief for reporting mistakes.

Comments requested

Last year, IRS requested comments as to whether a deadline extension to furnish Forms 1095-B and -C statements to individuals would be necessary in future years, and if so, why. IRS received very few comments, which now leads the agency to conclude that extensions to furnish individual statements may no longer be necessary after this year. IRS also had requested comments as to whether and how the Section 6055 MEC reporting requirements should change — if at all — for future years, but the agency received only one comment.

This year, IRS is again requesting comments on future extensions of the individual statement deadline and the Section 6055 MEC reporting relief. Unless IRS receives comments explaining the ongoing need for these pieces of relief, the agency will not provide further relief in future years. Comments must be submitted by Feb. 1, 2021.

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 federal relief.

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 relevant state or city agencies.

Related resources

Non-Mercer resources

- [Notice 2020-76](#) (IRS, Oct. 2, 2020)
- [About Form 1095-B, Health coverage](#) (IRS, Oct. 6, 2020)
- [About Form 1095-C, Employer-provided health insurance offer and coverage](#) (IRS, Oct. 6, 2020)
- [Form 8809, Application for extension of time to file information returns](#) (IRS, August 2020)
- [Information reporting by applicable large employers](#) (IRS, April 3, 2020)

Mercer Law & Policy resources

- [Top 10 compliance issues for health and leave benefits in 2021](#) (July 20, 2020)
- [Employers face ongoing liability for ACA play-or-pay assessments](#) (March 2, 2020)
- [Healthcare law and policy outlook for 2020](#) (Feb. 18, 2020)
- [Latest ACA case: Appeals court rules individual mandate unconstitutional](#) (Dec. 19, 2019)
- [ACA individual statement deadline and good-faith relief extended again](#) (Dec. 4, 2019)
- [IRS outlines how individual-coverage HRAs can meet ACA employer mandate](#) (Oct. 29, 2019)
- [Roundup of selected state health developments — third-quarter 2019](#) (Oct. 28, 2019)
- [Massachusetts employers need to gear up for health coverage reporting](#) (Oct. 1, 2019)
- [DC details employer reporting for individual health coverage mandate](#) (Aug. 20, 2019)
- [Bipartisan bills would simplify ACA employer-reporting requirements](#) (Aug. 12, 2019)
- [California individual coverage mandate includes employer health plan reporting](#) (July 16, 2019)

- [Final rules ease restrictions on health reimbursement arrangements](#) (June 14, 2019)
- [New Jersey posts update on health-coverage reports due in 2020](#) (April 16, 2019)

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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