Publications

Take Notice: The IRS Proposes ACA Reporting Relief and Deadline Extensions!

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On November 22, 2021, the Department of Treasury and the IRS issued proposed regulations generally intended to provide Form 1095-B and 1095-C reporting relief. Under the statutory language of the ACA, reporting entities are supposed to issue the Forms 1095-B and 1095-C, which provide information about the offers of and enrollment in health coverage during the prior year, to individuals by no later than January 31. The challenges related to preparing and distributing these forms on such a short timeframe soon became apparent, so through a series of Notices issued every year since these reporting rules first went into effect, the IRS has extended the deadline to furnish the Forms to individuals and provided good faith relief from reporting penalties. The proposed regulations would make this relief permanent, along with limited relief from the furnishing requirement that the IRS has provided for the last two years. However, the IRS is also proposing eliminating the good faith relief from reporting penalties it has offered since the inception of the reporting requirements. The proposed regulations would apply for calendar years beginning after December 31, 2021, and taxpayers may rely on the proposed regulations for calendar years beginning after December 31, 2020.

Relief for Large Employers

- **Deadline to furnish Forms 1095-C to individuals** – the proposed regulations provide an automatic 30-day extension from January 31 to March 2 (March 3 in a leap year) (if this date falls on a weekend day or legal holiday, the Forms are due on the next business day). The proposed regulations do not extend the deadline to file these Forms with the IRS, but employers can request a 30-day extension.

- **Alternative method of furnishing Forms 1095-B/C to individuals** – the proposed regulations provide that an employer would not be required to send Forms 1095-B/C to part-time employees and non-employees enrolled in the employer's self-insured plan, as long as the employer posts a "clear and conspicuous notice" on the employer's website stating that individuals may receive a copy of their statement upon The notice must include an email address, a physical address where the individual can send his/her request, and a telephone number where individuals can contact the employer with questions. Notably, this relief does not apply with respect to full-time employees. The employer must retain the notice on its website until October 15 of the year following the calendar year to which the Form relates.

Relief for Insurers, Multiemployer Plans, and Other Non-Large Employer Sponsors of Minimum Essential Coverage

- **Deadline to furnish Forms 1095-B to individuals** – the proposed regulations would provide an automatic 30-day extension from January 31 to March 2 (March 3 in a leap year) (if this date falls on a weekend day or legal holiday, the Forms are due on the next business day). The proposed regulations do not extend the deadline to file these Forms with the IRS, but reporting entities can request a 30-day extension.
- **Alternative method of furnishing Forms 1095-B to individuals** – the proposed regulations provide that the entity is not required to send Forms 1095-B to individuals, as long as the entity posts a "clear and conspicuous notice" on the entity's website stating that individuals may receive a copy of their statement upon The notice must include an email address, a physical address where the individual can send his/her request, and a telephone number where individuals can contact the entity with questions. The entity must retain the notice on its website until October 15 of the year following the calendar year to which the Form relates.

End of "Good Faith" Relief for Form 1094-B/C and 1095-B/-C Reporting

In order to give reporting entities time to come into compliance with the ACA reporting rules when they were implemented, the IRS stated it would not impose penalties for the reporting of incorrect or incomplete information if the reporting entity could show it made good faith efforts to comply with the information reporting requirements. This transitional relief was extended through tax year 2020. In the proposed rule, the IRS takes the position that the "good faith" relief should no longer apply now that the reporting requirements have been in effect for six years.

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