

Happy New Year from the IRS!

December 31, 2015

By [Timothy G. Verrall](#)

For the many employers and health care providers that have thus far been spending their holidays poring over the Affordable Care Act's (ACA) new tax forms and their cryptic instructions in anticipation of the inaugural round of reporting under Sections 6055 and 6056 of the Internal Revenue Code, the Internal Revenue Service (IRS) just delivered an unexpected gift to welcome the new year. In Notice 2016-4, the IRS has extended two key deadlines for reporting under the ACA's employer mandate, giving both employers and health care providers additional time to furnish and file the Forms 1094 and 1095.

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The ACA created two new tax reporting requirements under Code Sections 6055 and 6056, both of which first became effective in 2015.

1. First, health insurance issuers, employers maintaining self-insured health plans, government agencies and other providers of health coverage must report health coverage that they provided during 2015 on IRS Forms 1095-B and 1095-C; this reporting is used to back-stop the ACA's mandate on most taxpayers to procure and maintain health coverage.
2. In addition, applicable large employers (ALEs), which are generally those with 50 or more full-time employees, including full-time equivalents, must report health coverage they offered to full-time employees and their dependents on IRS Form 1095-C; this reporting is used to help the IRS enforce the ACA's employer mandate.

These forms must be furnished to individuals in much the same way as wage statements (i.e., Forms W-2), and they must also be filed with the IRS.

Gearing up for the two new reporting requirements has presented numerous technical and practical challenges, and as the deadline for preparing and finalizing the required forms has loomed large many employers and health care providers have been struggling to create and implement new systems and practices to ensure timely and accurate reporting. Fortunately, the extended deadlines contained in Notice 2016-4 should modestly lower the stress levels for reporting entities and allow a bit of additional time for implementation and testing. Specifically, the IRS has extended the Code Section 6055 and 6056 reporting deadlines as follows:

REPORT OF COVERAGE PROVIDED (SECTION 6055)	OLD DEADLINE	NEW DEADLINE
Provider (insurer or self-funded ALE) must furnish Form 1095-B or 1095-C to covered persons to report coverage provided to them	February 1, 2016	March 31, 2016
Provider (insurer or self-funded ALE) must file these forms with the IRS, using transmittal Forms 1094-B or 1094-C	March 31, 2016, for electronic filing	June 30, 2016, for electronic filing
	February 29, 2016, for paper filing	May 31, 2016, for paper filing

REPORT OF COVERAGE PROVIDED (SECTION 6055)	OLD DEADLINE	NEW DEADLINE
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ALE must furnish Form 1095-C to each full-time employee to report offer of coverage	February 1, 2016	March 31, 2016
ALE must file these forms with IRS, using transmittal Form 1094-C	March 31, 2016, for electronic filing	June 30, 2016, for electronic filing
	February 29, 2016, for paper filing	May 31, 2016, for paper filing

Unlike some reporting extensions associated with employee benefit plans, the extensions granted by Notice 2016-4 are automatic—reporting entities are not required to seek IRS approval or make additional submissions to request or claim an extension. For those reporting entities that may have previously requested a discretionary extension pursuant to the instructions for Forms 1094 and 1095, consider your request granted, albeit indirectly: any pending request for a discretionary extension will be superseded by the extensions provided in Notice 2016-4, and the IRS will not grant further extensions based on such requests. Significantly, reporting entities will be subject to penalties if they do not meet the extended deadlines (the same penalty regime that applies for W-2 reporting also applies for ACA reporting). Hopefully, the extended deadlines will enable most reporting entities to furnish and file the required forms and statements in a timely manner, but if their best laid plans go awry, employers should proceed with late filing as a better alternative to not filing at all. Furnishing or filing the forms after the extended deadline and making reasonable efforts to prepare for the reporting requirements will be mitigating factors in any penalty assessments.

It is possible that the extended deadlines may prompt inquiries from individuals who might have expected to receive ACA statements at the same time as their Forms W-2. Anticipating such inquiries, the IRS noted that that most individual taxpayers will not be affected by these extensions in practice because they do not affect: 1) employees who enrolled in employer coverage or other non-Exchange coverage; 2) employees who would not otherwise qualify for a premium tax credit for coverage purchased through an Exchange (e.g., because they qualify for Medicare or have a household income that is over the limit); 3) employees who did not enroll in any coverage; or 4) employees who received advance payments of premium tax credits based on a determination by an Exchange that the employer's offer of coverage was unaffordable (these determinations are conclusive for purposes of the employee's eligibility for the premium tax credit).

Those employees who are affected by the extensions—those who enrolled in Exchange coverage and did not receive advance premium tax credits—when filing their 2015 federal income tax returns may rely on “other information” from their employer and coverage provider about coverage offered to them and provided to them for purposes of determining their eligibility for premium tax credits. These employees will not need to amend their federal income tax returns if the information that their employers or providers provide to them later under the extended deadlines is inconsistent with the income tax return they filed.

Given the magnitude of challenges presented by the new ACA reporting requirements, it may be

ill-advised to take the next week or two off to celebrate the extensions granted by Notice 2016-4. But perhaps reporting entities can now breathe a little easier as they raise their New Year’s Eve toasts knowing that they have an extra month or three before their ACA reporting resolutions (read: requirements) kick in.

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