



December 2015

IRS Extends Deadlines for Filing Forms 1094-B, 1095-B, 1094-C, and 1095-C

On December 28th, the Internal Revenue Service (“IRS”) issued Notice 2016-4 that announced an extension of time for employers to report pursuant to Sections 6055 and 6056, using Forms 1094-B, 1095-B, 1094-C, and 1095-C. This is welcomed relief for employers and providers of minimum essential coverage (“MEC”) who have been scrambling to meet the original reporting deadlines. The IRS stated that the extension is meant to provide employers and other providers of MEC additional time to implement systems and procedures needed to gather, analyze, and report the information required for this first filing. As a result of the extension, for 2015 reporting only (performed in 2016), employers and other entities subject to the reporting requirements will have a couple of additional months to provide copies of Forms 1095-B and 1095-C to certain individuals and file the required Forms with the IRS. Because of the delay, the IRS stated that other available automatic and permissible extensions, as outlined in the final 2015 Form Instructions, will not be available for 2015 reporting.

Background

Beginning in 2016, Forms 1094-B and 1095-B (“B Forms”) will be used by small employers (i.e., those with fewer than 50 full-time and full-time equivalent employees) sponsoring self-insured plan to report on coverage provided to plan participants and their families during 2015. Employers may also use the B Forms to report coverage for individuals who were not current employees for any month during the applicable calendar year. Whereas, applicable large employers (i.e., those with at least 50 full-time and full-time equivalent employees) will use Forms 1094-C and 1095-C (“C Forms”) to report offers of employer-sponsored coverage made to their full-time employees.

2015 Reporting Deadlines

The IRS is giving employers and other providers of MEC two additional months to provide 2015 Forms 1095-B and 1095-C to individuals by extending the deadline to March 31, 2016 (previously February 1, 2016). The filing deadline to file the B and C Forms with the IRS has been extended by almost three additional months. For 2015 reporting, the deadline to file paper copies with the IRS is now May 31, 2016 (previously February 29, 2016) and the electronic filing deadline is now June 30, 2016 (previously March 31, 2016). However, the IRS is encouraging employers and other providers of MEC to provide and file the Forms as soon as they are ready. These extended deadlines will presumably not apply to reporting in future years (i.e., reporting in 2017 for the 2016 calendar year).

The chart below provides a summary of the new deadlines for 2015 reporting.

Deadline Type	Extended Deadlines for 2015 Reporting
Providing Forms 1095-B and 1095-C to Individuals	March 31, 2016
Paper Filing of B and C Forms with the IRS	May 31, 2016
Electronic Filing of B and C Forms with the IRS	June 30, 2016

Other Extensions Not Available for 2015 Reporting and Penalties for Noncompliance

Under the 2015 Final Instructions, employers and other providers of MEC could apply for a 30-day extension to provide Forms 1095-B and 1095-C to certain individuals (granted at the discretion of the IRS), and/or an automatic 30-day extension to file with the IRS using Form 8809. However, because the IRS delayed the 2015 reporting deadlines, the permissive and automatic 30-day extensions will not be available for 2015 reporting. Therefore, employers and other providers of MEC that fail to comply with the new 2015 due dates may incur penalties of \$260 per return with a maximum of \$3,178,500. These penalties can be double if the failure relates to both IRS filings and providing Forms 1095-B and 1095-C to certain individuals.

Employers and other providers of MEC that will not be able to meet the extended due dates are still encouraged to furnish and file the Forms. According to the IRS “late is better than never,” because penalties for failing to timely furnish or file the Forms may be waived if an employer or other provider of MEC demonstrates that the delay was due to reasonable cause. In other words, that the employer or other provider of MEC acted in a responsible manner and the failure to timely file was due to significant mitigating factors or events beyond the employer’s control. However this relief is not available to employers and providers of MEC that fail to provide or file the B and C Forms. In determining whether to decrease the penalties for reasonable cause the IRS will take the following into consideration:

- (1) Whether the Forms were furnished to individuals and filed with the IRS;
- (2) Whether reasonable efforts were made to prepare for reporting (i.e., gathering and transmitting the necessary data to an agent to prepare the data for IRS filing or testing its ability to transmit information to the IRS); and
- (3) The extent of the steps taken to ensure compliance with the 2016 reporting requirements (due in 2017).

Effect of the Delay on Individuals

In addition to its impact on employers, the new extended deadlines for the B and C Forms may have an impact on individual tax returns. This is because individuals may need the information provided on Form 1095-B and 1095-C to confirm that they had minimum essential coverage for purposes of the Individual Mandate. As a result of the extension, individuals may not receive this information before they file their income tax returns in early 2016. Therefore, for 2015 tax returns only, individuals who rely upon other

information received from their employer about their coverage for purposes of filing their tax returns need not amend their returns once they receive the Form 1095-B or Form 1095-C or any corrections.

Additionally, employees and related individuals who enrolled in coverage through the Marketplace, but did not receive a determination from the Marketplace that the offer of employer-sponsored coverage was not affordable, could be affected by the extension if they do not receive their Forms 1095-C before they file their income tax returns. As a result, for 2015 only, individuals who rely upon other information received from employers about their offers of coverage for purposes of determining eligibility for the premium tax credit when filing their income tax returns need not amend their returns once they receive their Forms 1095-C or any corrected Forms 1095-C.

Gallagher Benefit Services, through its compliance experts and consultants, will continue to monitor developments on healthcare reform legislation and regulation and will provide you with relevant updated information as it becomes available. In the interim, please contact your Gallagher Benefit Services Representative with any questions that you may have.

The intent of this analysis is to provide general information regarding the provisions of current healthcare reform legislation and regulation. It does not necessarily fully address all your organization's specific issues. It should not be construed as, nor is it intended to provide, legal advice. Your organization's general counsel or an attorney who specializes in this practice area should address questions regarding specific issues.