



Subject: **Form 1095 Benefit Statement Issuance Date Delayed**

Date: December 3, 2019

The Forms 1094 and 1095 are used to satisfy the IRC Section 6055 and 6056 reporting requirements. The B series of the forms are used to report minimum essential coverage. Employers subject to the IRC Section 6056 employer shared responsibility reporting requirement can accomplish this by completing Part III of the C series forms. The C series of these forms are used for reporting employer provided coverage by an applicable large employer subject to the Affordable Care Act's shared responsibility requirement.

As of the date of this writing, the 2019 finalized versions of these forms have not been released by the IRS. The draft versions of the forms were released on November 13, 2019 (see [CBIZ Health Reform Bulletin 146](#)).

On December 2, 2019, the IRS issued guidance ([Notice 2019-63](#)) announcing an extension for providing the 2019 Form 1095-B and Form 1095-C disclosure statements to individuals; these statements are generally due by January 31st following the reporting year. The due date for furnishing benefit statements (Form 1095-B and Form 1095-C) to individuals has been extended from January 31, 2020 to March 2, 2020. Due to this extension, there will be no further 30-day automatic extension available. Similar to prior disclosure delays issued by the IRS, the guidance provides that taxpayers can file their personal income tax return without having to attach the relevant Form 1095 to their tax returns.

This guidance also makes a change in the method for furnishing the Form 1095-B to individuals. Rather than furnish the Form 1095-B to individuals, a reporting entity is permitted to post a notice on its website stating that individuals can obtain their Form 1095-B upon request. The reporting entity must include an email address and a physical address for submitting the request, together with a telephone number for individuals to contact the entity with any questions. The reporting entity is also obligated to furnish the Form 1095-B within 30 days upon receiving a request from an individual.

Important to note, however, is that those employers who are subject to the IRC Section 6056 employer shared responsibility reporting obligation (employers employing 50 or more employees) and who sponsor self-funded plans must continue to complete Part III of the Form 1095-C. In other words, these employers cannot take advantage of the posting methodology described above to satisfy their IRC Section 6055 reporting obligation. The employer can use the simplified posting method for those individuals who are not required to be reflected in IRC Section 6056 reporting obligation.

The IRS guidance further states that the filing due dates for the 2019 Forms 1094-B and 1095-B, and the 2019 Forms 1094-C and 1095-C reports to the IRS are not extended. These reports must be submitted to the IRS no later than February 28, 2020 (or, by March 31, 2020 if filing electronically). An automatic 30-day extension of time to file the 1094/1095 forms remains available by submitting the Form 8809 with the IRS on or before the filing due date.

In addition, this guidance reinstates the good faith compliance standard that was allowed in prior years. This means that the potential IRS-imposed penalties for failure to comply with the reporting and disclosure requirements could be reduced or waived, even if incorrect or incomplete information is reported on the return or statement, such as missing and inaccurate taxpayer identification numbers and dates of birth, as long as the responsible reporting entity makes a good faith effort to complete the required forms accurately and timely.

Coordination of State Individual Mandate Laws

Several states have imposed an individual shared responsibility requirement wherein residents must maintain minimum essential coverage (MEC) or pay a state tax. These states are California (commences 2020 reporting year), District of Columbia (2019 reporting year, due June 30, 2020), Massachusetts (ongoing, with 1099HC as the reporting vehicle, due between November 1 and November 30 annually), New Jersey (2019 reporting year, due March 31, 2020), Rhode Island (commences 2020 reporting year), and Vermont (commences 2020 reporting year). Employers and insurers providing MEC are subject to annual reporting obligations to the relevant state tax department, and are required to provide written documentation to individuals attesting to coverage. Some of the state revenue departments have indicated that employers using the federal 1094/1095 forms would satisfy the state-required reporting obligation. At this time, this means that entities who are obligated to accomplish MEC reporting in these states will likely not be able to avail themselves of the simplified posting method described above. Affected entities will need to continue monitoring the state requirements for future changes if revisions are made to the federal forms.

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