



COMPLIANCE ALERT



EMPLOYEE BENEFITS | NOVEMBER 30, 2018

IRS Extends Deadline for Furnishing Form 1095, Extends Good-Faith Transition Relief

The Internal Revenue Service (IRS) has released [Notice 2018-94](#), extending the deadline for furnishing 2018 Forms 1095-B and 1095-C to individuals from January 31, 2019 to March 4, 2019, as well as penalty relief for good-faith reporting errors.

The due date for filing the forms with the IRS was not extended and remains February 28, 2019 (April 1, 2019 if filed electronically). Despite the repeal of the "individual mandate" beginning in 2019 as part of the Tax Cuts and Jobs Act, the ACA's information reporting requirements remain in effect, as the IRS uses the reporting to administer the employer mandate and premium tax credit program. The IRS is studying whether and how the reporting requirements under section 6055 (relating to insurance companies and self-insured plans) should change, if at all, for future years.

The [instructions](#) to Forms 1094-C and 1095-C allow employers to request a 30-day extension to furnish statements to individuals by sending a letter to the IRS with certain information, including the reason for delay. However, because the Notice's extension of time to furnish the forms is as generous as the 30-day extension contained in the instructions, the IRS will not formally respond to requests for an extension of time to furnish 2018 Forms 1095-B or 1095-C to individuals.

Employers may still obtain an automatic 30-day extension for filing with the IRS by filing [Form 8809](#) on or before the forms' due date. An additional 30-day extension is available under certain hardship conditions. The Notice encourages employers who cannot meet the extended due dates to furnish and file as soon as possible and advises that the IRS will take such furnishing and filing into consideration when determining whether to abate penalties for reasonable cause.

Extension of Good-Faith Relief

As with calendar year 2015–2017 reporting, the IRS will not impose penalties on employers that can show that they made good-faith efforts to comply with the requirements for calendar year 2018. In determining good faith, the IRS will consider whether employers have made reasonable attempts to comply with the requirements (e.g., gathering and transmitting the necessary data to an agent or testing its ability to transmit information) and the steps that have been taken to prepare for next year's reporting.

Note that the relief applies only to furnishing and filing incorrect or incomplete information, and not to a failure to timely furnish or file. However, if an employer is late filing a return, it may be possible to get penalty abatement for failures that are

due to reasonable cause and not willful neglect. In general, to establish reasonable cause the employer must demonstrate that it acted in a responsible manner and that the failure was due to significant mitigating factors or events beyond its control.

As in past years, individuals can file their personal income tax return without having to attach the relevant Form 1095. Taxpayers should keep these forms in their personal records. The IRS may not consider a return for 2018 complete and accurate if the taxpayer does not report full-year coverage, claim a coverage exemption, or report a shared responsibility payment.

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