



COMPLIANCE ALERT



EMPLOYEE BENEFITS | DECEMBER 2, 2019

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

The Internal Revenue Service (IRS) has released Notice [2019-63](#), which extends the deadline for furnishing 2019 Forms 1095-B and 1095-C to [individuals](#) from January 31, 2020 to **March 2, 2020**. The Notice also provides penalty relief for good-faith reporting errors and suspends the requirement to issue Form 1095-B to individuals, under certain conditions.

The due date for filing the forms with the IRS was not extended and remains **February 28, 2020 (March 31, 2020** if filed electronically).

The draft [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 2019 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.

Relief from Furnishing Form 1095-B to Individuals

Due to the individual mandate penalty being reduced to zero starting in 2019, an individual does not need the information on Form 1095-B in order to complete his or her federal tax return. Therefore, the IRS is granting penalty relief for employers who fail to furnish a Form 1095-B to individuals, provided that the reporting entity:

1. Posts a notice prominently on its website stating that individuals may receive a copy of their 2019 1095-B upon request, accompanied by an email address, phone number and a physical address the request can be sent; and
2. Furnishes an individual with a Form 1095-B within 30 days of a request.

Note that Applicable Large Employers (ALEs) are still required to furnish Form 1095-C to their full-time employees. They must also complete Part III if the employee is enrolled in self-insured coverage. The relief from furnishing Form 1095-B does not extend to IRS reporting. Forms 1095-B must still be submitted to the IRS, as applicable.

In general, this relief from furnishing Form 1095-B applies to insurers, and non-ALEs that sponsor self-insured plans, as they complete Form 1095-B for covered participants.

Extension of Good-Faith Relief

As with calendar year 2015 – 2018 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 2019. 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. The IRS has been enforcing late filing penalties via Letter 972CG, which may include penalties based on failed to file electronically (when required), or failure to file with correct TIN information.

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, even though the federal individual mandate penalty is not applicable for the 2019 filing year.

About the Authors: This alert was prepared for Woodruff Sawyer by Marathas Barrow Weatherhead Lent LLP, a national law firm with recognized experts on the Affordable Care Act. Contact Peter Marathas or Stacy Barrow at pmarathas@marbarlaw.com or sbarrow@marbarlaw.com.

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