2018 ACA Reporting: Filing Extensions, Forms Changes & Good Faith Compliance

Jan 23 2019

Practice Area: Compensation and Benefits/ERISA

Furnishing Employee Statements and Filing Deadlines
For the third consecutive year, the IRS has provided an automatic extension for furnishing Forms 1095 to employees and has extended the good faith compliance standards for ACA reporting.

In Notice 2018-94, the IRS announced an automatic 30-day extension for employers to furnish Form 1095-B (Health Coverage) and Form 1095-C (Employer Provided Health Insurance Offer and Coverage) to employees. The additional 30 days would place the deadline on a Saturday, so employers actually have until the next business day, or Monday, March 4, 2019, to furnish the Forms 1095 to employees. However, Notice 2018-94 **does not extend** the date for filing any ACA reports with the IRS, which means employers that provide minimum essential coverage must file Forms 1094-B and Forms 1095-B, and applicable large employers must file Forms 1094-C and Forms 1095-C, with the IRS on or before February 28, 2019, if filing by mail or by April 1, 2019, if filing electronically.

Notice 2018-94 also extends the good faith compliance standards to 2018 reporting. This means that employers will not be subject to penalties for incorrect or incomplete reports if they can show that they made a good faith effort to comply with the 2018 ACA information reporting requirements. Generally, the relief will apply to missing or incorrect information such as social security number or date of birth. However, the relief **does not** apply to a failure to file, or timely file, any reports.

2018 Forms
Fortunately, little has changed on the IRS 1094 and 1095 Forms as compared to previous years. Form 1094-C, the employer "transmittal" form, has only one apparent change which is the updated reporting year changed from 2017 to 2018. Part I, Line 17, continues to be marked "reserved" as are boxes B and C on Line 22 of Part II and column (e) of Part III.

In comparison, there is a change to Form 1095-C, the "employee statement" form, albeit a minor one. Part I, Line 1 and Part III, column (a), of the 2018 draft Form 1095-C includes dividers for the entry of the individual's first name, middle initial, and last name. This reflects the guidance provided in the IRS' Instructions for the 2017 Form 1095-C that directed employers to complete Line 1 in Part I and column (a) in Part III by providing the individual's first name, middle initial, and last name. According to the IRS' 2018 Instructions, the new format will ensure all Forms 1095-C are completed with an identical name structure, which will provide uniformity and hopefully solve the TIN errors (i.e. error message and rejected filings due to a mismatch between an individual's name and his or her taxpayer identification or social security number) that have plagued almost all employers filing the Forms 1094-C and 1095-C. Reporting of the "Plan Start Month," (Part II) will remain optional on the 2018 Form 1095-C and a review of the "Instructions for Recipient" page of the draft Form 1095-C indicates nothing has changed with regard to reporting the offer of coverage (Line 14 of Part II) or the employee's required contribution (Line 15, Part II).

Conclusion
Despite the elimination of the individual penalty and the numerous challenges to the Affordable Care Act, to date there has been no discussion to eliminate or modify the reporting of health care coverage by employers. Consequently, employers subject to the ACA employer mandate must continue to furnish employee statements and file reports with the IRS or face potential significant penalties.

---

von Briesen & Roper Legal Update is a periodic publication of von Briesen & Roper, s.c. It is intended for general information purposes for the community and highlights recent changes and developments in the legal area. This publication does not constitute legal advice, and the reader should consult legal counsel to determine how this information applies to any specific situation.