

INTERNAL REVENUE SERVICE

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Notification Reminder for Forms 1095-C and 1095-B

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Under the Affordable Care Act (“ACA”), the deadline for applicable large employers (“ALEs”) to furnish Form 1095-C and 1095-B to certain individuals (such as full-time employees in the case of Form 1095-C) is January 31 with respect to the preceding calendar year. The Internal Revenue Service (“IRS”) released final regulations on December 12, 2022 with respect to ACA reporting requirements. These final regulations provided an automatic extension of 30 days to furnish these statements to individuals.

This means that Wednesday, March 2, 2023 is the deadline to furnish individuals with 2022 Forms 1095-C and 1095-B. This extension is automatic; employers or other reporting entities are not required to file a request with the IRS, or to demonstrate reasonable cause to justify the extension.

It should be noted that the final rule did not extend the deadline to file completed Forms 1095-C and 1095-B with the IRS. This due date remains March 31, 2023 (or February 28, 2023 for paper filing if filing fewer than 250 forms).

While the IRS has provided the automatic extension of time to furnish these statements, it should be noted that if an ALE is operating in a state with an individual mandate, the timing to furnish proof of coverage to covered residents may be different.

Alternative Method for Furnishing ACA Statements

Under the ACA, IRS Forms 1095-C and 1095-B must be sent by first class mail to the last known permanent address of the individual. If no permanent address is known, the statement must be sent by first class mail to the individual’s temporary address. The statement may also be furnished electronically if certain requirements are met.

The final regulations make permanent an alternative method for furnishing IRS Form 1095-B to individuals, for as long as penalties under the ACA's individual shared responsibility rules remain zero. The alternative method is available to the following reporting entities:

- Health insurance carriers and plan sponsors (other than ALEs) that are using IRS Form 1095-B to provide proof of MEC
- ALEs with a self-funded group medical plan that are using IRS Form 1095-B to provide proof of MEC to individuals who are not considered "full-time" under the ACA for any month of the calendar year (i.e., non-full-time employees and non-employees covered under the plan during the calendar year)
- Small employers (not ALEs) with a self-funded health plan that are using IRS Form 1095-B to provide proof of MEC

It should be noted that the alternative method is not available to ALEs that are furnishing IRS Form 1095-C to employees considered "full-time" under the ACA for one or more months of the calendar year. Further, the alternative method may not be available if operating in a state with an individual mandate where Forms 1095-C or 1095-B must be furnished to covered residents. Keep in mind, if the alternative method is used, the reporting entity must still file the Form 1095-B with the IRS.

The following steps must be followed by a reporting entity that elects to use the alternative method:

- A clear and conspicuous notice that meets certain technical requirements must appear on the reporting entity's website
- The notice must state that covered individuals may receive a copy of IRS Form 1095-B upon request, and informs them how the request may be made

- The notice must appear in the same website location through October 15 (or the next business day if October 15 falls on a Saturday, Sunday, or legal holiday) following the end of the calendar year to which the form relates
- IRS Form 1095-B must be furnished to the requesting individual within 30 days after the request is received; the ACA statement may be furnished electronically if certain requirements are met.

Employer Action

With respect to furnishing Forms 1095-C and 1095-B for CY 2022, employers must furnish these statements to individuals no later than March 2, 2023. Final Forms and Instructions are now available.

Employers should know whether carriers will take advantage of the alternative furnishing method with respect to Forms 1095-B they issue.

Employers in a state with an individual mandate (California, District of Columbia, Massachusetts, New Jersey, Rhode Island, and Vermont), and required to furnish covered residents with proof of coverage during the calendar year, should continue to comply with state rules.