

REFORM UPDATE

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IRS EXTENDS DUE DATES FOR 2015 EMPLOYER REPORTING

At the very end of 2015, the IRS released an advanced version of Notice 2016-4, extending the due dates for the employer reporting requirements. This complex new reporting applied to employers for the first time in 2015. More details on reporting can be found in our *Reform Update* at http://mcgrawwentworth.com/wp-content/uploads/Reform_Update_112.pdf.

The new dates will apply to insurance carriers, employers and other organizations that are required to issue these new forms. For employers, the extended due dates apply both to the forms that need to be provided to employees and the submission of those forms to the IRS.

The new due dates are as follows:

1. **Form to Employees (two-month extension)** – The due date for Form 1095-C is extended to March 31, 2016 (from February 1, 2016).
2. **Forms to IRS (three-month extension)** – The new due dates for Forms 1094-C and 1095-C depend on how the forms are submitted:
 - Paper: The due date for forms submitted on paper is extended to May 31, 2016 (from February 29, 2016).
 - Electronic: The due date for forms submitted electronically is extended to June 30, 2016 (from March 31, 2016). Unless a waiver is granted, an employer producing at least 250 1095-Cs must submit electronically.

Although the IRS is extending the due dates, they are still prepared to accept these filings in January 2016. Employers, insurance carriers and other organizations may require additional time to gather, analyze and report the required information, but the IRS encourages them to file these returns as soon as they are ready.

Because the IRS is providing extensions, the automatic and other potential deadline extensions for these forms will **not** apply to the extended due dates. If employers or other coverage providers do not comply with the extended due dates, they may be subject to penalties for failure to timely furnish and file the forms.

If the filing deadline is missed, the IRS will take into account the extent to which the employer or other coverage provider is taking steps to ensure that it is able to comply with the reporting requirements for 2016. The IRS is encouraging employers and other coverage providers to file the forms, even if they will be unable to meet the extended due dates. The IRS will take the late filing into consideration when determining whether to abate penalties for reasonable cause. They will also take into account whether an employer or other coverage provider made reasonable efforts to prepare for reporting and submission of the forms.

This new notice also provides guidance to individuals who were anticipating receiving these forms to file with their 2015 tax returns. Form 1095-C serves two purposes. First, it will be used to determine if an individual is eligible for premium tax credits when purchasing individual coverage in the Marketplace. (An individual is not eligible for premium tax credits if she or he is offered affordable, minimum-value coverage sponsored by an employer.) Next, for employers that self-fund the medical plan, Form 1095-C provides information on covered individuals, including dependents. For fully-insured plans, the insurance carrier provides Form 1095-B, which includes information on individuals covered during the calendar year. This proof of coverage allows taxpayers to avoid the individual penalty for failing to have health coverage.

At this point, the IRS believes Form 1095-C will likely not be needed by most individuals (e.g., employees) with regard to eligibility for premium tax credits when filing their income tax return for 2015. The Marketplace is supposed to determine if any available employer-sponsored coverage is affordable and of minimum value when an application is made for individual coverage in the Marketplace. Specifically, the extension will not affect the following:

- Employees who enrolled in employer-sponsored coverage or in other coverage that was not offered through the Marketplace.
- Employees who for any other reason would not qualify for a premium tax credit (for example, an employee who qualifies for Medicaid or has household income in excess of the eligibility limits).
- Employees who enrolled in coverage through the Marketplace and received the benefit of advance payments of the premium tax credit based on a determination by the Marketplace.

However, in some cases, individuals may need Form 1095-C when filing their 2015 taxes in order to determine eligibility for tax credits. As a result, for 2015 only, individuals who rely upon other information received from employers about their offers of coverage will not need to amend their returns after they receive their Form 1095-C or a corrected Form 1095-C. Individuals are not required to send this information to the IRS when filing their returns, but should keep it with their tax records. It seems likely that the IRS will have taxpayers check a box on their 2015 tax returns to confirm their health plan coverage during 2015. Individuals will have to show proof of coverage if audited.

Please note that these extensions to the filing deadlines apply only to returns filed in 2016 for the 2015 calendar year.

Many employers have engaged external vendors to assist with the preparation of these important tax forms. These vendors will contact their clients directly regarding their interpretation of these newest regulations and how current timelines and deliverables may be affected.

Finally, we expect insurance carriers to issue information regarding the effect of these extensions on the release of Form 1095-B to individuals. Be on the lookout for updates from your medical insurance providers, if applicable.

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