

Employee Benefit Plan Review

Ask the Experts

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ACA 2020 FORM 1094 AND 1095 REPORTS

Q My company sponsors a self-insured group health plan and is a large employer with more than 850 employees. I read that the Internal Revenue Service (“IRS”) extended the deadline to distribute IRS 2020 Forms 1095-C reports to participants in group health plans. Is the deadline for filing the IRS Form 1094-C also extended and, if so, to what date?

A In Notice 2020-76, the IRS has extended the deadline to furnish IRS Forms 1095 for 2020 to participants to March 2, 2021. As of January 12, 2021, the IRS had not extended the deadline for filing copies of the IRS Forms 1094-C with the IRS and the deadline for filing the IRS Form 1094 and 1095 series forms for 2020 remains February 28, 2021 (March 31 if filed electronically).

The Patient Protection and Affordable Care Act of 2010, as amended (“ACA”), added new Sections 6055 and 6056 to the Internal Revenue Code (“IRC”). Section 6055 requires health insurance issuers, self-insuring employers, government agencies, and other providers of minimum essential coverage to file and furnish annual information returns and statements regarding coverage provided by the coverage provider. IRC Section 6056 requires applicable large employers (generally those with 50 or more full-time employees, including full-time equivalent employees, in the previous year) to file and furnish annual information returns and

statements relating to the health insurance, if any, that the employer offers to its full-time employees.

Treasury Regulations under IRC Section 6055 require insurers that provide minimum essential coverage to an individual during a calendar year to (1) file with the IRS an information return and a transmittal on or before the following February 28 (March 31 if filed electronically), and (2) furnish to the participant a written statement on or before January 31 following the calendar year to which the statement relates.¹ The IRS has designated IRS Form 1094-B, Transmittal of Health Coverage Information Returns, and IRS Form 1095-B, Health Coverage, as the forms required to be filed or furnished by insurers.

The Treasury Regulations under IRC Section 6056 require an applicable large employer or a member of an aggregated group that is determined to be an applicable large employer (“ALE member”) to (1) file with the IRS an information return and a transmittal on or before February 28 (March 31 if filed electronically) of the year following the calendar year to which it relates, and (2) furnish to full-time employees a written statement on or before January 31 following the calendar year to which the statement relates.² The IRS has designated IRS Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, and IRS Form

1095-C, Employer-Provided Health Insurance Offer and Coverage, to meet the requirements of the IRC Section 6056 regulations.

In addition, an ALE member that offers health coverage through a self-insured health plan must complete information about individuals enrolled in the plan on IRS Form 1095-C, Part III, rather than IRS Form 1095-B. In certain cases, self-insured plans may report information related to non-employees on IRS Forms 1094-C and 1095-C.

The IRS may grant an extension of time of up to 30 days to furnish IRS Forms 1095-B and 1095-C to participants for good cause shown.³ Filers of IRS Forms 1095-B, 1094-C, and 1095-C may also receive an automatic 30-day extension of time to file these forms with the IRS by filing an IRS Form 8809, Application for Extension of Time To File Information Returns, on or before the due date for filing those forms.⁴

Because the extended deadline of March 2, 2021, to furnish IRS Forms 1095-B and 1095-C is more generous than the 30-day extension that the IRS may otherwise grant for good cause shown, the IRS will not consider requests for the 30-day extension of time to furnish IRS Forms 1095-B and 1095-C to participants. However, filers of IRS Forms 1094 and 1095 series reports may apply for an automatic extension of the deadline to file the IRS Forms 1094 and 1095 series reports with the IRS.

EXTENSION OF BENEFIT PLAN DEADLINES DUE TO COVID

Q I had read in one of your columns from last year that the Department of Labor (“DOL”) extended the deadline for participants to submit claims and appeal claims denials under benefit plans until 60 days after the National Emergency has ended. Has any further guidance been issued on when the National Emergency is expected to end?

A As noted in our column in the September 2020 issue of *Employee Benefit Plan Review*, in response to the COVID-19 National Emergency, the DOL extended or “paused” the deadline for participants to submit claims and appeal adverse claims decisions under employee benefit plans. In addition, the DOL extended or “paused” a number of other benefit plan related deadlines as a result of the COVID-19 National Emergency, including, for example, deadlines to elect COBRA and pay COBRA premiums, and to exercise special enrollment rights under the Health Insurance Portability and Accountability Act.⁵

Specifically, the deadline for filing or appealing claims under employee benefit plans subject to the claims procedure requirements under Section 503 of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), has been extended or “tolled” during the period beginning March 1, 2020 and ending 60 days after the COVID-19 National Emergency is declared to have ended (“Outbreak Period”).

On March 13, 2020, President Trump declared a National Emergency as a result of the COVID-19 pandemic. The National Emergency was declared to have begun on March 1, 2020. Unless the National Emergency is extended, it will expire automatically on March 1, 2021. If the National Emergency does expire on March 1, 2021, the Outbreak Period will end 60 days later on April 30, 2021. 🌟

NOTES

1. See Treasury Regulation § 1.6055-1(f) and (g)(4) and IRC Section 6055(c)(2).
2. See Treasury Regulation § 301.6056-1(e) and (g) and IRC Section 6056(c)(2).
3. See Treasury Regulation §§ 1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A).
4. See Treasury Regulation §§ 1.6081-1 and 1.6081-8.
5. See <https://www.federalregister.gov/documents/2020/05/04/2020-09399/extension-of-certain-timeframes-for-employee-benefit-plans-participants-and-beneficiaries-affected>.

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