

BDO KNOWS: COMPENSATION AND BENEFITS



SUBJECT

ACA REPORTING (FORMS 1095) RUNNING DOWN TO THE WIRE; ASSISTANCE STILL AVAILABLE TO MEET MARCH 31, 2016, DEADLINE

SUMMARY

Beginning this year, the Affordable Care Act (ACA) requires certain employers to report health coverage information to their employees and the IRS. If you have already completed and mailed the 2015 Forms 1095 to employees, no further action is needed at this time. If your Forms 1095 are still in process, most systems and vendors have an internal deadline that is earlier than the IRS's March 31 deadline for providing copies to employees. In short, not much time remains to complete your reporting obligation to employees.¹

DETAILS

Triple Check if You Don't Think the ACA Reporting Requirements Apply to Your Business

Employers with 50 or more full-time and full-time-equivalent employees in the 2014 calendar year are required to provide Form 1095-C to each employee who is considered full-time for any one month during 2015. This determination is NOT made based solely on your entity's employee count. If your entity is connected to another entity through ownership you might be required to combine all employees when determining your requirement to prepare Forms 1095-C. Subsidiaries with less than 50 employees that know little about other entities owned by the parent (especially foreign parents) are at particular risk for a filing requirement caused by the headcount of its brother-sister businesses.

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¹ The IRS copy of the Form 1095s must be transmitted with a Form 1094 no later than May 31, 2016 or June 30, 2016 if filed electronically.

Even employers with fewer than 50 full-time and full-time equivalent employees that offer self-insured health benefits have a requirement to provide employees a Form 1095-B.

Still Working... You're Not Alone

While many employers are nearing completion of the forms, some are still in the early stages, i.e., identifying full time employees, extracting data from various systems, clarifying which codes apply for Form 1095-C and locating a vendor that can produce the Forms.

Keep Going to Reduce Penalties

Don't give up on the process. There are penalties that apply for a failure to provide the Form 1095 as required. The IRS has indicated that it will be lenient on first year penalties, provided the employer made a good faith effort at compliance. Missing the March deadline without making every effort to file as soon as possible could be considered an act of bad faith. If the IRS does not think an employer acted in good faith, then it could apply a penalty of \$250 for each IRS and payee copy not filed or furnished to the recipient, respectively. The maximum penalty is \$3 million for the IRS copies and \$3 million for the recipient copies per calendar year.

Even if March 31 deadline is missed, continued diligence to prepare the Forms can avoid a failure to file the IRS copy before the applicable May or June due date and can significantly reduce the penalty of the late employee copy. For failures that are corrected within 30 days after the filing due date, the \$250 penalty is reduced to \$50 per return and the maximum penalty of \$3 million is reduced to \$500,000 per calendar year. For failures corrected after 30 days but before August 1, the \$250 penalty is reduced to \$100 per return and the maximum penalty of \$3 million is reduced to \$1.5 million per calendar year.

Filers with gross receipts under \$5 million are subject to the same per return penalty as outlined above but continue to get a break on the maximum annual penalty of \$1 million per calendar year with reductions to \$175,000 if corrected within 30 days, and \$500,000 if corrected after 30 days but before August 1.

On the other hand, taking no action could result in the penalty for intentionally failing to file of \$1,000 per violation (\$500 for each IRS and payee copy not filed or furnished to the recipient).

What to Do

Re-evaluate your plan for compliance and be realistic.

- ▶ If the data gathering and code assignment is more than your in-house capabilities, request help from an outside source.
- ▶ If your vendor has proven to be not capable, change vendors.
- ▶ Deliver the Forms 1095 that you have completed to contain the penalty exposure to fewer undelivered Forms. For instance, if the information on COBRA coverage is proving difficult to obtain or to combine with the information needed to file Forms 1095 for active employees, don't delay the forms for the actives who are unaffected by COBRA benefits. Deliver the forms that are ready and complete the COBRA information as soon as possible prior to the IRS filing deadline.

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