



UPDATE:

IRS Extends Deadlines for Affordable Care Act Reporting

On December 28th, the IRS released Notice 2016-4, which extended the distribution and filing deadlines for the Affordable Care Act (ACA) reporting requirements set forth in Sections 6055 and 6056 of the Internal Revenue Code (the "Code"). Under Code Section 6055, health coverage providers are required to file with the IRS, and distribute to covered individuals, forms showing the months in which the individuals were covered by "minimum essential coverage." Under Code Section 6056, applicable large employers (generally, those with 50 or more full-time employees and equivalents) are required to file with the IRS, and distribute to employees, forms containing detailed information regarding offers of, and enrollment in, health coverage. In most cases, employers and coverage providers will use Forms 1094-B and 1095-B and/or Forms 1094-C and 1095-C. The chart below shows the new deadlines.

	Old Deadline	New Deadline
Deadline to Distribute Forms to Employees and Covered Individuals	Feb. 1, 2016	March 31, 2016
Deadline to File with the IRS	Feb. 29, 2016 (paper)	May 31, 2016
	March 31, 2016 (electronic)	June 30, 2016

Notice 2016-4 brings welcome, albeit late, relief for employers and coverage providers that have been furiously working to meet the original deadlines. Importantly, the IRS explained that because the new deadlines are available to all filers and are more favorable than the extensions that were otherwise available, no additional automatic or permissive extensions will be granted.

The importance of filing by the new deadlines cannot be understated, as the IRS is applying a good faith compliance standard to all timely filed forms reporting 2015 information. Under this standard, the IRS will not assess a penalty for incomplete or incorrect information on the reporting forms as long as the forms were filed on time and the filer can show that it completed the forms in good faith.

Those that do not file by the new deadlines will be subject to penalties under Code Sections 6721 and 6722. The IRS stated in Notice 2016-4 that it would apply a reasonable cause analysis when

determining the penalty amount for a late filer. According to the IRS, this analysis will take into account such things as whether reasonable efforts were made to prepare for filing (e.g., gathering and transmitting data to an agent or testing its own ability to transmit information to the IRS) and the extent to which the filer is taking steps to ensure that it can comply with the reporting requirements for 2016.

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