

EB Flash: IRS Permits ACA Coverage Notices to Be Provided Upon Request and Extends Due Date for ACA Reporting

Employee Benefits Alert

12.03.2019

The Internal Revenue Service (IRS) yesterday issued [Notice 2019-63](#), which allows health insurance issuers, certain self-insured employers, and other providers of minimum essential coverage (Reporting Entities) to provide the [2019 Form 1095-B, Health Coverage](#) (Form 1095-B) upon request, instead of automatically, without penalty, and extends the due dates for certain 2019 information reporting requirements under [Internal Revenue Code section 6055](#) and [section 6056](#) for applicable large employers (those employers who employ 50+ full-time employees or full-time equivalent employees).

The Affordable Care Act (ACA) requires every provider of minimum essential coverage to report coverage by filing an information return with the IRS and sending a statement to individuals. The IRS uses this information to administer the [individual shared responsibility provision in section 5000A](#).

The Tax Cuts and Jobs Act reduced the individual shared responsibility penalty to zero for months beginning after December 31, 2018. Notice 2019-63 clarifies that although Reporting Entities are generally still required to furnish Form 1095-B to individuals, the IRS will not impose a penalty under section 6722 against Reporting Entities for failing to furnish a Form 1095-B if:

- The Reporting Entity posts a notice prominently on its website stating that individuals may receive a Form 1095-B upon request, accompanied by an e-mail and physical address to request the form, along with a telephone number to call with any questions; and
- The Reporting Entity furnishes the Form 1095-B within 30 days of receipt of a request.

This penalty relief does not apply to self-insured Reporting Entities who are applicable large employers required to furnish the [2019 Form 1095-C, Employer-Provided Health Insurance Offer and Coverage](#) (Form 1095-C).

Notice 2019-63 also extends the January 31, 2020 due date to March 2, 2020 for furnishing to individuals:

- The 2019 Form 1095-B; and
- The 2019 Form 1095-C.

This 30-day extension applies automatically and is as generous as the 30-day permissive extension available under the regulations. Therefore, the IRS will not formally respond to requests for a permissive 30-day extension.

The guidance also extends transitional good-faith relief from penalties under section 6721 and 6722 to the 2019 information reporting requirements under sections 6055 and 6056.

The 10-page text of Notice 2019-63 is [posted here](#).

The information contained in this communication is not intended as legal advice or as an opinion on specific facts. This information is not intended to create, and receipt of it does not constitute, a lawyer-client relationship. For more information, please contact one of the senders or your existing Miller & Chevalier lawyer contact. The invitation to contact the firm and its lawyers is not to be construed as a solicitation for legal work. Any new lawyer-client relationship will be confirmed in writing.

This, and related communications, are protected by copyright laws and treaties. You may make a single copy for personal use. You may make copies for others, but not for commercial purposes. If you give a copy to anyone else, it must be in its original, unmodified form, and must include all attributions of authorship, copyright notices, and republication notices. Except as described above, it is unlawful to copy, republish, redistribute, and/or alter this presentation without prior written consent of the copyright holder.