



June 24, 2024

VIA ELECTRONIC SUBMISSION

Internal Revenue Service
Attn: CC:PA:01:PR Room 5203
Internal Revenue Service
Room 6526
1111 Constitution Avenue NW
Washington, DC 20224

Re: Requesting Comments on Form 1094-C, Form 1095-C, and Form 4423
Federal Register Volume 89, Issue 82 (April 26, 2024)
Page 32526

To Whom It May Concern:

We are grateful for the opportunity to submit the following recommendations to the Internal Revenue Service ("IRS") concerning Affordable Care Act ("ACA") information returns, namely Form 1094-C and Form 1095-C (collectively, "forms"). As a tax advisory firm that has assisted tax filers with ACA tax reporting since its inception, including tens of thousands of annual filings and millions of dollars in penalty assessment responses, we understand the value, intricacies, and challenges of ACA reporting. As such we encourage the IRS to make changes based on the following recommendations.

Forms 1094-C and 1095-C are Necessary for IRS Administration of the Affordable Care Act

The collection of information reported on Forms 1094-C and 1095-C is necessary for the performance and function of the IRS as it enforces the ACA's employer shared responsibility rules and provisions.

A key purpose of the ACA is to entice large employers to provide sufficient and affordable health coverage to full-time employees with the aim of "sharing" the cost of healthcare. A structure of potential financial penalties applied against any large employer that doesn't meet the insurance requirements acts as a deterrence in hopes of preventing companies from not offering employee health benefits. The forms report to the IRS, among many data points, whether enough full-time employees were offered minimum essential coverage in each month and whether a particular employee was offered affordable coverage. This reporting allows the IRS to know whether a shared responsibility penalty may be applicable. Without this, the IRS would not be able accurately impose penalties and thereby entice employers to offer health coverage. Practical utility exists by the fact that the reported information enables the application of accurate penalties.

Additionally, many individuals find use in the reporting, specifically Form 1095-C. While the individual shared responsibility payment was reduced to zero by the Tax Cuts and Jobs Act, some taxpayers (and tax preparers) still review and retain copies of their annual forms. In states where a state-level individual

mandate exists (CA, DC, MA, NJ, and RI), the Form 1095-C is helpful for completing state income taxes. Additionally, the Form 1095-C is accepted as the state filing in all these states except for Massachusetts.

For the forementioned reasons we recommend that the forms continue in usage.

Extending the Filing Deadline Will Decrease Burdens on Large Employers Without Significantly Impacting IRS Administration

Currently, large employers must furnish forms to employees by March 1st (extended from January 31st). The filing deadlines follow soon after – employers must file with the IRS by February 28 if filing on paper or March 31 if filing electronically. We recommend extending these deadlines back 30 days each.

An additional 30 days will provide employers extra time to collect necessary information, complete any calculations, and prepare the forms with greater accuracy. For many organizations, particularly smaller companies who lack a dedicated ACA reporting team and extra resources, the reporting rules are still complex (and too often unfamiliar). The furnishing deadline comes for many soon after year-end when much of their time is dedicated to income tax filings, financial reporting, wrapping up year-end processes, and finalizing major benefits functions (e.g., open enrollment). Thirty extra days would help employers better manage the burden of reporting while managing other unrelated priorities.

Furthermore, effective with 2021 ACA reporting, accuracy-related penalties (Internal Revenue Code Sections 6721 and 6722) are no longer shielded by transitional good faith relief. The ending of the grace period has greatly increased the risk of accuracy-related penalties. Here again additional time would benefit employers as it would help mitigate penalty risks – more time for preparing and reviewing forms would allow employers to file more complete and accurate Forms 1094-C and 1095-C.

Should the deadline be extended by 30 days, the impact to the IRS's administration functions may be minimal. The forms' main purpose, as discussed above, is to aid with the IRS's administration of the employer shared responsibility provisions. When the IRS has determined that a penalty is justified, it notifies employers via letter (e.g., Letter 226-J). Currently, penalty assessments are being received by filers one-and-a-half to two-years after the filing deadline. Assuming the IRS will continue to process ACA reporting and penalty proposals under this timeline, moving the filing deadline back 30 days should impact IRS penalty administration minimally.

Actively Enforcing Accuracy-related Penalties May Enhance the Quality of Forms 1094-C and 1095-C

More aggressively examining Forms 1094-C and 1095-C for accuracy would be beneficial. In our experience, the scope of the IRS's analysis of the forms is limited to whether an employer shared responsibility penalty is applicable, with examinations and questioning into form accuracy being rare. Other information returns, such as Form 1099 and W-2, are subject to accuracy related penalties if prepared incorrectly by Taxpayers. Regular, random, or targeted examinations into form accuracy would incentivize employers to provide higher quality reporting from the outset. Also, since the IRS would have more precise and complete data for reviewing, another benefit would be more accurate employer shared responsibility penalties.

For employers who are unfamiliar with the forms (and rules) and may struggle complying with accuracy, many reasonably priced ACA reporting services options are available. Tax practitioners who specialize in ACA reporting services are also available nationwide. The obligation has been on employers to provide

accurate reporting since 2015, with increased risk of accuracy-related penalties effective with 2021 reporting. As such, more actively examining ACA reporting for accuracy would not be placing new burdens on employers.

We appreciate the opportunity to share these recommendations and would be happy to meet with the Internal Revenue Service to discuss it in greater detail.

Thank you,

Eide Bailly LLP

A handwritten signature in cursive script that reads "Tonya M. Rule".

Tonya M. Rule, CPA
Partner