



## Benefit Advisors Network Smart Partners

### LEGAL ALERT

#### **IRS Extends Deadline for Furnishing Forms 1095, Extends Good Faith Transition Relief**

The Internal Revenue Service (IRS) has released [Notice 2018-6](#), extending the deadline for furnishing Forms 1095-B and 1095-C to individuals from January 31, 2018 to **March 2, 2018**, as well as penalty relief for good-faith reporting errors.

The due date for filing the forms with the IRS was not extended and remains February 28, 2018 (April 2, 2018 if filed electronically). Despite the repeal of the “individual mandate” beginning in 2019 as part of the Tax Cuts and Jobs Act, at this time, the ACA’s information reporting requirements remain in effect (the IRS will continue to use the reporting to administer the employer mandate and premium tax credit program).

The [instructions](#) to Forms 1094-C and 1095-C allow employers to request a 30-day extension to furnish statements to individuals by sending a letter to the IRS with certain information, including the reason for delay. However, because the Notice’s extension of time to furnish the forms is as generous as the 30-day extension contained in the instructions, the IRS will not formally respond to requests for an extension of time to furnish 2017 Forms 1095-B or 1095-C to individuals.

Employers may still obtain an automatic 30-day extension for filing with the IRS by filing [Form 8809](#) on or before the forms’ due date. An additional 30-day extension is available under certain hardship conditions. The Notice encourages employers who cannot meet the extended due dates to furnish and file as soon as possible, and advises that the IRS will take such furnishing and filing into consideration when determining whether to abate penalties for reasonable cause.

#### ***Extension of Good-Faith Relief***

As with calendar year 2015 and 2016 reporting, the IRS will not impose penalties on employers that can show that they made good-faith efforts to comply with the requirements for calendar year 2017. In determining good faith, the IRS will consider whether employers have made reasonable attempts to comply with the requirements (e.g., gathering and transmitting the necessary data to an agent or testing its ability to transmit information) and the steps that have been taken to prepare for next year’s reporting.

Note that the relief applies only to furnishing and filing incorrect or incomplete information, and not to a failure to timely furnish or file. However, if an employer is late filing a return, it may be possible to get penalty abatement for failures that are due to reasonable cause and not willful neglect. In general, to establish reasonable cause the employer must demonstrate that it acted in a responsible manner and that the failure was due to significant mitigating factors or events beyond its control.

As in past years, individuals can file their personal income tax return without having to attach the relevant Form 1095. Taxpayers should keep these forms in their personal records. Taxpayers should note that for 2017, the IRS will not consider a return complete and accurate if the taxpayer does not report full-year coverage, claim a coverage exemption, or report a shared responsibility payment.

Employers should note that the IRS does not anticipate extending transition relief – either with respect to the due dates or with respect to good faith relief from penalties – to reporting for 2018.

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