



February 18, 2024

ACA Reporting Relief for Employers Goes into Effect – Update

New relief affects Form 1094/1095 reporting and employer mandate penalties

On December 17, 2024, Congress passed the “[Paperwork Burden Reduction Act](#)” (H.R. 3797) and the “[Employer Reporting Improvement Act](#)” (H.R. 3801). These bills ease the administrative burden for Affordable Care Act (ACA) reporting by amending the filing and distribution requirements for Forms 1094 and 1095 and placing enforcement limitations on the IRS’s employer mandate penalty assessments. President Biden signed both bills into law on December 23, 2024.

This Alert summarizes the new relief and is relevant for ACA applicable large employers (ALEs),¹ as well as smaller employers sponsoring self-insured medical plans (including level-funded coverage). The reporting relief is available for 2024 Form 1094 and 1095 reporting.

This updated Alert also includes sample language intended as a good-faith effort to satisfy the Paperwork Burden Reduction Act’s relaxed delivery rules for Forms 1095.

A brief overview of ACA reporting

The ACA’s employer shared responsibility requirements (“employer mandate”) generally requires ALEs to offer medical coverage to at least 95% of its full-time (FT) employees that meets certain requirements (e.g., minimum value and affordability)² or face potential penalties.

There are two versions of the IRS Forms (Forms) – 1094/1095-B and 1094/1095-C – that serve separate but related reporting functions. First, the Forms tell the IRS whether an ALE offered affordable, minimum value coverage to at least 95% of its FT employees. Second, “issuers of coverage” are required to report all individuals enrolled in their medical coverage. In addition to insurance carriers for fully

¹ ALEs are employer(s) who average 50 or more full-time employees, including full-time equivalent employees, over the prior calendar year.

² This also includes the full-time employee’s natural and adopted children under age 26.

Highlights

Overview

New legislation aimed at easing employer ACA reporting and penalty response burdens goes into effect in 2025 and applies to 2024 Form 1094/1095 reporting.

This Alert is relevant for employers subject to Form 1094/1095 reporting and ALEs subject to the ACA’s employer shared responsibility penalties.

Key provisions

Paperwork Burden Reduction Act

Beginning with the 2024 Forms 1095, employers do not have to automatically provide the forms to individuals if they adequately notify individuals of their right to request a copy. This relief still requires additional guidance from the U.S. Department of the Treasury.

Employer Reporting Improvement Act

- Electronic delivery consents for Form 1095 remain in effect until revoked,
- Relaxed use of name and DOB in lieu of SSN on Form 1095-C, Part III for 2024 Form 1095 reporting,
- IRS Letter 226-J response due date extended to 90 days beginning in 2025, and
- Employer mandate penalties are subject to a six-year statute of limitations.

Employer action items

Employers should review this relief with their applicable advisors and vendors and take any necessary steps to implement it, if applicable.

insured plans, employers sponsoring self-insured plans are considered “issuers of coverage,” so there is an automatic reporting obligation for employers sponsoring self-insured plans, regardless of the employer’s size.

This means that the applicable reporting obligations depend upon whether: (i) the employer is an ALE or a non-ALE, and (ii) whether coverage is fully insured or self-insured. The following is a summary of the required forms based on employer size and plan type:

Plan Type	Form 1095-C Parts I and II	Form 1095-C Part III	Form 1095-B Employer	Form 1095-B Carrier
Non-ALE Fully Insured	No	No	No	Yes
Non-ALE Self-Insured	No	No	Yes	No
ALE Fully Insured	Yes	No	No	Yes
ALE Self-Insured	Yes	Yes	No	No

The ACA requires the distribution of these forms to applicable individuals and filing with the IRS by certain deadlines. An “applicable individual” is an individual required to receive a Form 1095.

The IRS may assess penalties against employers for failing to offer adequate coverage under the employer mandate, failing to file Forms 1094/1095 with the IRS, and failing to timely distribute copies of the applicable Forms 1095 to required individuals.

Paperwork Burden Reduction Act (PBRA)

Beginning with the 2024 Forms 1095, employers that meet certain conditions are only required to provide Forms 1095-B or -C to individuals upon request instead of automatically providing forms within 30 days after January 31st of the following year (i.e., March 2nd; March 1st for Leap Years). The conditions are:

1. The employer provides a clear, conspicuous, and accessible notice to applicable individuals of their right to request a copy of the Form 1095; and
2. The employer provides the form by the later to occur of: (i) January 31st of the year following the Form 1095 reporting year; or (ii) 30 days after receiving the request.

Example

An employee requests a copy of their 2024 Form 1095-C on January 25, 2025. The employer must provide the form no later than February 24, 2025.

Open Issues

The PBRA directs the Secretary of the Treasury (Treasury) to provide specifics on the timing and manner of the notice, but these details have not been released as of this Alert’s publication date. The missing final details and other welcome guidance includes:

- how and in what form employers can provide the notice, including electronic delivery,
- a model notice or statement,
- whether Treasury intends to use the PBRA’s January 31st date or allow employers to provide copies by the later of Treasury’s existing relaxed deadline (e.g. March 3, 2025, for the 2024 reporting year) or 30 days following the request, and
- whether weekends affect the delivery date (we assume no).

Until Treasury releases updated guidance, we believe that the sample notice in this Alert’s [Appendix](#) is a reasonable, good faith compliance effort.

Employer Reporting Improvement Act (ERIA)

Electronic consent

Beginning with the 2024 Forms 1095, employers can rely upon a consent to electronic delivery for 2024 and subsequent years without having to obtain a new consent each year. The consent remains effective unless and until revoked in writing.

Employers seeking to utilize this relief may need to update their consent forms. As a precaution, we recommend obtaining a consent for 2024 delivery rather than relying upon a prior consent applicable to 2023 reporting.

Plan participant identification

Form 1095-B and Part III of the 1095-C require employers to include the names and social security numbers (SSNs) or taxpayer identification numbers (TIN)³ for plan participants.

Beginning with the 2024 Forms 1095, employers can use an individual's name and date of birth in place of their SSN/TIN if the employee does not provide it. This may relieve employers from having to request participant SSNs/TINs at least three times, although the two issues are technically separate. Further clarification would be welcome.

Letter 226-J deadline extension and statute of limitations

The IRS uses Letter 226-J to notify employers of proposed IRC §4980H(a) and/or (b) employer mandate penalties. Letter 226-J gives employers 30 days to respond and either agree or dispute the proposed penalties. Historically, the IRS granted extensions of 30 to 60 days if timely requested before the initial 30-day response date.

For Letters 226-J issued in 2025 and thereafter, the ERIA provides employers at least 90 days from the date on the Letter 226-J to agree or dispute the assessment. If timely requested, it seems reasonable to assume the IRS will allow 60-day extensions for Letters 226-J issued in December 2024 to align with the new requirement in the ERIA.

In 2020, the IRS Office of the Chief Counsel confirmed that there was no statute of limitations for employer mandate penalties.⁴ The ERIA imposes a six-year statute of limitations for ACA employer mandate penalty assessments by the IRS beginning with the 2024 Forms 1094/1095 due in 2025.

State employer mandates

There are currently six states/jurisdictions (California, the District of Columbia, Massachusetts, New Jersey, Rhode Island and Vermont) with their own individual mandate laws and most require distribution of Forms 1095-B or -C to individuals and reporting to the applicable agency.⁵ Neither the PBRA nor ERIA have any effect on state individual mandate requirements. There is a possibility that some states may reconcile their employer mandate requirements with the new legislation, but as of the date of this alert, no states have done so (although the state of California has confirmed that it will not impose any penalties on employers for failure to provide Forms 1095-B or 1095-C to individuals). For additional information on state individual mandate requirements, please see our [Guide](#).

³ The [individual tax identification number](#) (also known as the "TIN" or "ITIN") is available to U.S. taxpayers who are not eligible for an SSN.

⁴ [IRS Chief Counsel Memorandum 20200801F \(Dec. 26, 2019\)](#).

⁵ Massachusetts has its own unique requirements and does not use ACA forms for compliance with its coverage mandate.

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Appendix

Background for our sample notice

We are providing this as an example of a clear, conspicuous, and accessible notice for employees as required under the Paperwork Burden Reduction Act (PBRA). This sample is based upon prior guidance that allows insurance carriers and employers offering self-insured coverage to provide Forms 1095-B to individuals (and Form 1095-C to non-full-time employees) using an alternate online posting method.

Employers should post a link on its main website page or the landing page for its benefits information entitled “Important Health Coverage Tax Documents” that provides the notice and explains how an individual can obtain a copy of their Form 1095. Employers should post this by March 3, 2025, and maintain it through at least October 15, 2025. This information must be readily accessible to all individuals required to receive a form, which may include former employees. Employers will need to determine if an intranet benefits location and/or third-party web portal meets this requirement. An employer could choose to send paper copies to former employees and rely on alternative delivery for current employees, but this may be administratively burdensome.

Employers wishing to use electronic delivery must obtain affirmative consent, although employers are not required to provide documents electronically and may instead mail paper copies upon request. Consent may be automated on the website allowing individuals to click a box and provide notice of consent in real-time. Alternatively, you may direct employees to print the notice, check the applicable box, and submit to the designated contact. We realize some employers may already have consent as part of the enrollment process.

Note: Treasury may later issue guidance with respect to the PBRA relief, and we cannot guarantee that this sample will meet the requirements of future guidance.

[SAMPLE NOTICE]

IMPORTANT HEALTH COVERAGE TAX DOCUMENTS

Electronic Delivery of Form 1095-C

We are providing this notice to alert you of an important change regarding the distribution of Form 1095-C. [Company XYZ] is no longer required to automatically mail the Form 1095 to individuals.

The forms are available electronically on our website here: [insert location]. [Include a brief description of how an individual would access and download a copy of their form.]

Electronic access to the 2024 forms will remain available through October 15, 2025. You may have to request a paper copy of your 2024 form after that date.

Request for Paper Copy

If you would like to receive a paper copy of Form 1095-C, you can request the form through one of the following methods:

- Email: [HR@xyzcompany.com]
- Phone: [(555) 555-5555]
- Mailed Request:
[XYZ Company
Attn: Human Resources
123 Street,
Anytown, PA 11111]