



## EMPLOYEE BENEFITS

# Notice of Proposed Rulemaking ACA Reporting Relief for ALEs and Issuers

November 2021

On Tuesday, November 23, 2021, the IRS issued a Notice of Proposed Rulemaking that would permit employers an automatic 30-day extension of time to furnish Form 1095-C to employees and, if applicable, to provide Form 1095-B to covered individuals. No written request for the extension applies, and if the deadline falls on a weekend or holiday, the deadline will be extended to the next business day. The rule applies to plan years starting after December 31, 2021 and subsequent calendar years. However, the notice states that, pending the issuance of final regulations, “*Taxpayers may rely on §§1.6055-1 and 301.6056-1 of these proposed regulations for calendar years beginning after December 31, 2020...*” Taxpayers in this context appears to mean coverage providers and Applicable Large Employers (ALEs) subject to the disclosure and reporting requirements. In other words, employers will have until March 2, 2022 to provide the 2021 1095-Cs to individuals.

The proposed rule also provides that insurers may use an alternative method for furnishing 1095-B forms to participants, by a clear and conspicuous posting on the carrier’s website, stating that responsible individuals may receive a copy of their statement upon request. When

there is no individual shared responsibility penalty (which was eliminated under the 2018 Tax Cuts and Jobs Act), this alternative method will fulfill the insurer’s Section 6055 reporting obligation. Individuals covering dependents under a fully insured medical plan may need to request their 1095-B to satisfy state individual mandates.

ALEs (Applicable Large Employer) who provide self-insured coverage **to non-FTEs** may also use this relief for individuals covered by the health plan but who are not full-time employees. However, ALEs may not apply this alternative method to furnish Forms 1095-C to full-time employees enrolled in the self-insured plan “*because of the combined reporting by ALE members under sections 6055 and 6056 on Form 1095-C for full-time employees of ALE members enrolled in self-insured health plans.*”

Lastly, the IRS reiterated that the “good faith” relief will no longer apply to 2021 reporting and beyond.

As always, we recommend that you discuss the proposed rules with your legal counsel and tax advisor to make sure you understand how the proposed rules impact you and your health plan.



**The Brown & Brown Employee  
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review and monitor developments.**



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