

Client Alert

IRS Extends Deadline for Furnishing Form 1095-C to Employees, Extends Good-Faith Transition Relief for the Final Time

The Internal Revenue Service (IRS) has released [Notice 2020-76](#), which extends the deadline for furnishing 2020 Forms 1095-B and 1095-C to individuals from January 31, 2021 to **March 2, 2021**. The Notice also provides penalty relief for good-faith reporting errors and suspends the requirement to issue Form 1095-B to individuals, under certain conditions.

The due date for filing the forms with the IRS was not extended and remains **March 1, 2021** (**March 31, 2021** if filed electronically).

The regulations 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 2020 forms to individuals. Employers may obtain an automatic 30-day extension for filing with the IRS by filing [Form 8809](#) on or before the 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 considering whether to abate penalties for reasonable cause.

Relief from Furnishing Form 1095-B to Individuals

Due to the individual mandate penalty being reduced to zero starting in 2019, an individual does not need the information on Form 1095-B in order to complete his or her federal tax return. Therefore, the IRS is granting penalty relief for employers who fail to furnish a Form 1095-B to individuals, provided that the reporting entity:

- 1) Posts a notice prominently on its website stating that individuals may receive a copy of their 2020 1095-B upon request, accompanied by an email address and a physical address where the request can be sent. The notice must also include a phone number individuals can use to contact the reporting entity with questions; and
- 2) Furnishes an individual with a Form 1095-B within 30 days of a request.

Note that Applicable Large Employers (ALEs) are still required to furnish Form 1095-C to their full-time employees. They must also complete Part III if the employee is enrolled in self-insured coverage. The relief from furnishing Form 1095-B does not extend to IRS reporting. Forms 1095-B must still be submitted to the IRS, as applicable.

{00030800}

In general, this relief from furnishing Form 1095-B applies to insurers, and non-ALEs that sponsor self-insured plans, as they complete Form 1095-B for covered participants.

Extension of Good-Faith Relief (Final Year)

As with calendar year 2015 – 2019 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 2020. 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. The Notice indicates that the good-faith relief was intended to be transitional relief, and therefore 2020 is the last year the IRS intends to provide this relief.

Note that the good-faith 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. The IRS has been enforcing late filing penalties via Letter 972CG, which may include penalties based on failed to file electronically (when required), or failure to file with correct TIN information.

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, even though the federal individual mandate penalty is not applicable for the 2020 filing year.

About the Authors. This alert was prepared for Rubicon Benefits, LLC by Marathas Barrow Weatherhead Lent LLP, a national law firm with recognized experts on the Affordable Care Act. Contact Stacy Barrow at sbarrow@marbarlaw.com or Nicole Quinn-Gato at nquinnгато@marbarlaw.com or Adam Rosenfeld at adam.rosenfeld@rubiconbenefits.com.

The information provided in this alert is not, is not intended to be, and shall not be construed to be, either the provision of legal advice or an offer to provide legal services, nor does it necessarily reflect the opinions of the agency, our lawyers or our clients. This is not legal advice. No client-lawyer relationship between you and our lawyers is or may be created by your use of this information. Rather, the content is intended as a general overview of the subject matter covered. This agency and Marathas Barrow Weatherhead Lent LLP are not obligated to provide updates on the information presented herein. Those reading this alert are encouraged to seek direct counsel on legal questions.

© 2020 Marathas Barrow Weatherhead Lent LLP. All Rights Reserved.