

Compliance Directions

Legislation Eases ACA Employer Mandate Reporting Gallagher

President Biden signed legislation that eases the Employer Mandate reporting and disclosure requirements under the Patient Protection and Affordable Care Act (ACA). This is a timely development given that the Form 1095 reporting season is upon us.

Disclosing Forms 1095-C to Individuals

Previously, large employers were required to disclose the Forms 1095-C to responsible individuals by January 31 of the following year. The IRS provided flexibility to employers disclosing the 1095-B in 2020, permitting them to post a notice on their website that Forms are available upon request, and including an email and physical address where requests could be sent, in addition to a telephone number for questions. The new law adopts this same flexibility for large employers disclosing their Forms 1095-C to employees. Now, employers can meet their Form 1095 distribution requirements by posting a notice of availability and then only distributing the forms upon request. It must be provided by January 31 or within 30 days upon a request, whichever is later.

Covered Individuals' Tax Identification Numbers

Historically, large employers were required to gather social security numbers (SSNs) and tax identification numbers (TINs) for individuals covered by their plan. If the SSN/TIN was not provided upon first request, employers were required to request the SSN/TIN two more times before the employer substituting with the individual's date of birth. Employers can now avoid the additional solicitations and use the date of birth when the individual's SSN/TIN is unavailable.

Employer Penalty Process

The new law also provided additional relief with respect to the Employer Mandate penalty process. The IRS audits large employers' Forms 1094 and 1095-C filings to determine if the employer should be assessed a penalty. Upon that determination, the IRS would issue a Letter 226-J, which triggers a 30-day response time to appeal the IRS' assessment. The new legislation increases response times to 90 days. Further, the retroactive period for which the IRS can levy such penalties is now limited to six years.

The intent of this article is to provide general information on employee benefit issues. It should not be construed as legal advice and, as with any interpretation of law, plan sponsors should seek proper legal advice for application of these rules to their plans.