



AMERICAN BENEFITS  
COUNCIL

November 29, 2018

*Submitted via email and overnight delivery*

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

**Re: Extension of Relief for Employer Reporting Under the Affordable Care Act**

Dear Commissioner Rettig:

On behalf of the American Benefits Council (Council), I am writing to request the Internal Revenue Service (IRS) extend relief with regard to certain employer reporting obligations under the Patient Protection and Affordable Care Act (ACA).

As discussed below, employers continue to face on-going compliance challenges related to the January 31 furnishing deadline for Form 1095-C. To address these concerns, we urge the IRS to: (1) continue the good faith relief offered for calendar years 2016 and 2017 reporting under sections 6055 and 6056 of the Internal Revenue Code ("Code") for calendar year 2018 reporting; and (2) extend the deadline for furnishing the related statements to individuals from January 31, 2019, to March 4, 2019. The Council notes that there is established and recent precedent for such relief, which has been provided by the IRS for prior calendar years to which the reporting requirements have applied.

The Council is a public policy organization whose members include over 220 of the world's largest corporations, as ranked by Fortune and Forbes. Collectively, the Council's members either directly sponsor or administer health and retirement benefits for virtually all Americans covered by employer-sponsored plans.

The ACA imposes a range of requirements on employers and the health plans they sponsor. More specifically, sections 6055 and 6056 of the Code, as added by the ACA,

require certain annual information reporting by employers relating to the health coverage that the employer offers (or does not offer) as well as self-insured coverage that the employer provides. Code section 6055 requires all providers of “minimum essential coverage,” including employer sponsors of self-insured health plans, to create reports describing the coverage provided to individuals. To the extent that an employer is an “applicable large employer” for purposes of the employer shared responsibility provisions of Code Section 4980H (*i.e.*, “employer mandate”), Code Section 6056 imposes reporting requirements, including details regarding whether the coverage meets the standards of “minimum essential coverage,” “affordability,” and “minimum value.”

The IRS published Forms 1094-B, 1095-B, 1094-C, and 1095-C to collect the information related to sections 6055 and 6066, to enforce the individual and employer mandates, and to assist in making sure that ineligible individuals do not benefit from receiving a premium tax credit (as defined in Code Section 36B) to help pay for individual health insurance coverage. These reporting requirements generally went into effect for most employers for the 2015 tax year and require forms to be both filed with the IRS and furnished to individuals.

Employers are generally required to provide Forms 1095-C to employees by no later than January 31 of the year following the end of the year for which the reporting is required. Many employers continue to face significant challenges in accurately completing and furnishing the forms by January 31, as they need to compile a significant amount of information, prepare the forms, and leave sufficient time to print the forms and prepare the mailing.

As one example of the difficulties that employers face in completing the Forms 1095-C by January 31, employees who are terminated in October through December of one year may not even make a COBRA election until January through March of the following year, which may significantly affect the information which has to be reported on the relevant form. Notably, employers also have other significant reporting and other administrative obligations at the end of the year, including the preparation and mailing of Forms W-2, preparation of fourth quarter financial reports, and closing out of year-end accounting records, which further complicates the ability to meet the Form 1095-C furnishing deadline.

As employers continue to work through the on-going compliance challenges raised by these reporting requirements, we request the following relief for calendar year 2018:

- (1) an automatic 30-day extension of the deadline for the 2018 information-reporting requirements under Code Sections 6055 and 6056 for furnishing statements to individuals (*i.e.*, an extension of the deadline from January 31, 2019, to March 4, 2109), and

- (2) the extension of good faith transition relief from Code Section 6721 and 6722 penalties to the 2018 reporting requirements under Code Sections 6055 and 6056.

The requested relief will assist employers in complying with the highly complex and burdensome Code Section 6055 and 6056 reporting requirements.

Thank you for your consideration. If you have any questions or would like to discuss these comments further, please contact me at (202) 289-6700.

Sincerely,

A handwritten signature in black ink that reads "Kathryn Wilber". The signature is written in a cursive, flowing style.

Kathryn Wilber  
Senior Counsel, Health Policy

CC: David J. Kautter, Assistant Secretary for Tax Policy, Department of the Treasury  
William M. Paul, Acting Chief Counsel and Deputy Chief Counsel, Internal Revenue Service  
Philip Lindenmuth, Health Care Counsel, Internal Revenue Service, Office of Chief Counsel  
Carol Weiser, Office of Benefits Tax Counsel, Department of the Treasury  
Kathryn Johnson, Office of Benefits Tax, Department of the Treasury  
Kimberly Koch, Office of Tax Legislative Affairs, Department of the Treasury