

# 2021 ACA Employer Reporting Update: Permanent Extension to Provide Employee Forms & End of Transition Relief for Reporting Errors

January 4, 2022

## Quick Facts

- The Internal Revenue Service (IRS) has released the 2021 IRS Affordable Care Act (ACA) Reporting Forms 1094 and 1095 and proposed regulations that permanently change the deadline for employers to provide copies of Form 1095 to employees.
- The final forms contain very few changes from prior years.
- The proposed final rules make permanent the 30-day extension the IRS has allowed in previous reporting years.
- Employers required to comply with state individual mandate reporting requirements may face different deadlines.

## Background

The IRS has released the 2021 IRS ACA Reporting Forms 1094 and 1095 and proposed regulations that permanently change the deadline for employers to provide copies of Form 1095 to employees. The proposed rules also eliminate the IRS's "good faith" penalty relief for reporting errors, making accurate reporting more important than ever.

## 2021 Final Forms 1094 and 1095 Have Been Released

The final forms contain very few changes from prior years; however, reference to relief for reporting errors has been removed from the instructions (see more below). Form 1095-C also contains two new codes for employers that sponsor an individual coverage health reimbursement arrangement (ICHRA).

## Permanent Extended Deadline for Distributing Form 1095s to Individuals

Employer reporting rules require that employers provide a copy of Form 1095 to employees and participants by January 31; however, for the last few years, the IRS has offered a 30-day extension to that deadline. The proposed rules make this 30-day extension permanent. For 2021 calendar year reporting, statements must be provided to participants by March 2, 2022.

NOTE: The due dates for filing Form 1094 and Form 1095 returns with the IRS have NOT been extended. For 2021 reporting, the deadline to file Form 1094 and Form 1095s with the IRS is February 28, 2022, for paper filers, and March 31, 2022, for those who file electronically. This is in line with previous years' deadlines.

In addition, employers required to comply with state individual mandate employer reporting requirements may face earlier deadlines. Currently, four states – California, Massachusetts, New Jersey, Rhode Island – and Washington, D.C. have coverage reporting requirements.

## End of Penalty Relief for Reporting Errors

In previous years, the IRS provided some relief from reporting penalties for errors or missing information. This relief was only available if the employer filed timely and could show it made a good faith effort to comply with information reporting requirements. The IRS makes it clear in the proposed rules that this “good faith relief” is no longer available beginning with reporting for the 2021 calendar year.

The IRS may impose penalties of up to \$280 per form for providing a participant with an inaccurate or incomplete form. A separate \$280 per form penalty could apply for the same mistake in the forms filed with the IRS, potentially triggering a penalty of up to \$560 per employee.

## Permanent Relief for Section 6055 Statement Delivery

Generally, the requirement to deliver 1095 forms is only applicable to large employers (ALE); however, some small employers that do not qualify as an ALE, but do offer self-insured health benefits, are also required to report. These employers can use Form 1095-B. The IRS allows carriers and small self-funded employers completing Form 1095-Bs to post a notice by March 2, 2022, prominently on a website or employer intranet, stating that individuals may receive a copy of their Form 1095 upon request and provide information on how to obtain their copy.

## Summary

The permanent extension for providing forms to employees and participants is good news; however, the end of good-faith relief from reporting error penalties means employers must take extra care this year to make sure forms are accurate and complete.

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