



## **BENEFIT NEWS BRIEFS**

### ***A Closer Look At the 2015 Draft Instructions to IRS Forms 1094-C and 1095-C***

In [Client Bulletin 2015-40](#), we discussed the draft 2015 Instructions for Forms 1094-C and 1095-C with an emphasis on Lines 14 and 16 of Part II of Form 1095-C. In this publication, we are going to take a look at some of the other changes in the draft Instructions for Form 1095-C. We will not be discussing the transmittal Form 1094-C.

We will focus on Applicable Large Employers (ALEs) who contribute to multiemployer group health plans and the filing requirements for such employees. ALEs are employers with 50 or more full-time employees (FTE) (including FTE equivalents). ALEs must also report on their employees who are not covered by the multiemployer plan and different instructions apply to reporting offers of coverage on such employees. ALEs should seek legal and professional advice on fulfilling their filing duties regarding Form 1094-C and 1095-C.

As you may recall, an ALE must file one or more Forms 1094-C (including a Form 1094-C designated as the Authoritative Transmittal, whether or not filing multiple Forms 1094-C), and must file a Form 1095-C for each employee who was a FTE of the employer for any month of the calendar year. Generally, the ALE is required to furnish a copy of the Form 1095-C (or a substitute form) to the employee.

The general timing rules concerning the provision of a Form 1095-C to an employee by an ALE state that the copy must be furnished by January 31 of the year following the year to which the Form 1095-C relates. But, if this regular due date falls on a Saturday, Sunday, or legal holiday, the filing is timely if filed by the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday. Therefore, since January 31, 2016 is a Sunday, the Form 1095-C should be provided to employees by Monday, February 1, 2016.

## ***Changes in the Form 1095-C***

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Recall Form 1095-C has three parts:

- Part I concerns information on the employee and the employer.
- Part II concerns information on the Employer's offer of coverage.
- Part III concerns information on covered individuals and this part is filled out only by ALES sponsoring self-insured plans that are not self-insured multiemployer plans. ALEs contributing to multiemployer plans do not fill out Part III as the employees for whom the ALE makes contributions to the multiemployer plan will be reported on Forms 1094-B and 1095-B by the multiemployer plan sponsor, the Trustees.

### ***The changes in the draft 1095-C Instructions include:***

- how to file for an automatic 30-day extension of time to file the Form 1095-C,
- how to file for a waiver from the electronic filing requirement,
- how to file corrected Forms 1094-C and 1095-C and
- how to get an extension of time to provide a Form 1095-C to an employee.

After discussing these changes to the Instructions, we will review who must file what by the type of plan and size of employer.

## ***Extensions, Waivers and Corrections***

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The draft 2015 Instructions address extensions, waivers and corrections of Form 1095-C. We will briefly discuss each change. For more information see the draft Instructions.

### ***Automatic Extension of Time to file Forms 1094-C and 1095-C***

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Filers can get an automatic 30-day extension of time to file by completing [Form 8809, Application for Extension of Time To File Information Returns](#). The Instructions to the Form 8809 are on the Form itself.

An ALE should file for an extension of time as soon as it is known that an extension of time to file is needed. The form 8809 may be submitted on paper, or through the FIRE System either as a fill-in form or an electronic file. No signature or explanation is required for the extension. However, the Form 8809 must be filed by the due date of the returns (Monday, February 1, 2016 for the 2015 Form) in order to get the 30-day extension.

Under certain hardship conditions, filers may apply for an additional 30-day extension. See the instructions for Form 8809 for more information. Generally, requests for additional time are granted only where it is shown that extenuating circumstances prevented filing by the date granted by the first request.

### **Waiver Of Electronic Filing Requirement**

An ALE can apply to receive a waiver from the requirement to file information returns electronically by submitting [Form 8508, Request for Waiver From Filing Information Returns Electronically](#) at least 45 days before the due date of the returns. For the 2015 Forms, this waiver would need to be submitted by Friday, December 18, 2015. This waiver is NOT automatic.

If a waiver for original returns is approved, any corrections for the same types of returns will be covered under the waiver. However, if the original returns were submitted electronically but you want to submit your corrections on paper, a waiver must be approved for the corrections if you must file 250 or more corrections. If the filer receives an approved waiver, do not send a copy of it to the service center where the paper returns are filed. Keep the waiver for your records only.

### **Corrected Forms 1094-C and 1095-C**

#### ***Corrected Returns Filed Electronically***

For information on how to file corrections for electronically filed forms, see Section 7.1 of [Pub. 5165](#).

#### ***Corrected Returns on Paper Forms***

A corrected return should be filed as soon as possible after an error is discovered. File the corrected returns as follows:

- **Form 1094-C.** If correcting information on the Authoritative Transmittal (identified on Part I, line 19, as the Authoritative Transmittal), file a standalone fully completed Form 1094-C including the correct information and enter an "X" in the CORRECTED checkbox. Do not file a return correcting information on a Form 1094-C that is not the Authoritative Transmittal. *Do not file any other documents (e.g. Form 1095-C) with the corrected Authoritative Transmittal.*
- **Form 1095-C.** If correcting information on a Form 1095-C that was previously filed with the IRS, file a fully completed Form 1095-C including the correct information and enter an "X" in the CORRECTED checkbox. File a Form 1094-C Transmittal (DO NOT mark the CORRECTED checkbox on the Form 1094-C) with corrected Form(s) 1095-C. Generally, then furnish the employee a copy of the corrected Form 1095-C.

### **Extensions Of Time To Furnish Statement To Recipients**

Filers may request an extension of time to furnish the 1095-C statements to recipients by sending a letter to:

Internal Revenue Service  
Information Returns Branch  
Attn: Extension of Time Coordinator  
240 Murall Drive  
Mail Stop 4360  
Kearneysville, WV 25430.

The letter must include (a) filer name, (b) filer TIN, (c) filer address, (d) type of return, (e) a statement that extension request is for providing statements to recipients, (f) reason for delay and (g) the signature of the filer or authorized agent.

The request must be postmarked by the date on which the statements are due to the recipients (Monday, February 1, 2016 for the 2015 Form). If the request for an extension is approved, generally you will be granted a maximum of 30 extra days to furnish the recipient statements.

### **Conclusion**

The IRS continues to refine the 1094-C/1095-C Instructions, especially with regard to ALEs that contribute to multiemployer group health plans. We have heard informally that the next or final draft of the Instruction will clarify the series 2 code priorities which should make reporting by ALEs who contribute to multiemployer plans easier. Such ALEs must still report on any other employees not covered by the multiemployer plan in accordance with the non-multiemployer plans rules.

While the IRS is revising the Instructions to further clarify matters, we think it would be helpful for the Instructions to say "self-insured (non-multiemployer)" as appropriate instead of just saying "self-insured". This is because most multiemployer health plans are self-insured and the lack of clear differentiation in the text of what kind of "self-insured" plan is at issue (multiemployer or non-multiemployer) makes such lengthy instructions more difficult to read.

Emphasizing the type of self-insured plan being referred to in the instructions and perhaps even reiterating in one place the rules for ALEs contributing to multiemployer plans that are currently scattered through the instructions might be helpful.

In the following Attachment, we have attempted to sort out the forms by size of employer and type of plan in a comprehensive manner below.

## Attachment To Benefit News Briefs 2015-42

### What Form Must Be Filed by Who and When?

Breaking down the 1094/1095-B and 1094/1095-C Forms filed by size of employer (ALE or non-ALE) and type of plan (self-insured (non-multiemployer), self-insured (multiemployer) and insured):

#### I. ALEs

##### ➤ **Self-insured (non-multiemployer)**

An ALE that offers health coverage through an employer-sponsored self-insured health plan (non-multiemployer) must complete Form 1095-C, Parts I, II, and III, for any employee who enrolls in the health coverage, whether or not the employee is a FTE for any month of the calendar year. The draft instructions specifically state that an "employer-sponsored self-insured health plan" does not include health coverage under a self-insured multiemployer health plan. The ALE should distribute a copy of the Form 1095-C to the individual listed thereon by February 1, 2016.

The Instructions to the Forms 1094-B/1095-B note that ALEs sponsoring self-insured group health plans (non-multiemployer) generally will report information about the coverage in Part III of Form 1095-C instead of on Form 1095-B. The Instructions continue that such filers may use Form 1095-B instead of Form 1095-C to report coverage of individuals who aren't full-time employees for any month during the year.

##### ➤ **Self-insured (Multiemployer)**

If an ALE is offering health coverage to employees through a self-insured multiemployer health plan as a contributing employer and using the interim multiemployer transition guidance, the ALE would complete Parts I and II for the employees covered under the multiemployer plan, but not Part III for those employees for which it contributes to the multiemployer plan. The plan sponsor (Trustees) will file Forms 1094-B and 1095-B to report information for employees who enrolled in the multiemployer plan coverage and distribute a copy of Form 1095-B to the individuals covered under the plan.

The draft Instructions for Form 1095-C Part II state such an ALE can enter 1H on line 14 when it chooses to enter 2E on line 16. The ALE should distribute a copy of the Form 1095-C to the individual listed thereon by February 1, 2016.

##### ➤ **Insured**

If an ALE is offering health coverage to employees through an insured health plan, the ALE should complete Form 1095-C Parts I and II but not complete Part III for those employees. The insurer will file Forms 1094-B and 1095-B to report information for employees who enrolled in the coverage. The ALE should distribute a copy of the Form 1095-C to the individual listed thereon by February 1, 2016.

## II. Small Employers (non-ALEs - <50 FTE EEs)

### ➤ **Self-Insured (non-multiemployer)**

A small employer that offers employer-sponsored *self-insured* (non-multiemployer) health coverage should *not* file Forms 1094-C and 1095-C, but should instead file Forms 1094-B and 1095-B to report information for employees who enrolled in the coverage. The small employer should distribute a copy of the Form 1095-B to the individual listed thereon by February 1, 2016.

### ➤ **Self-Insured (multiemployer)**

A small employer that offers employer-sponsored *self-insured* multiemployer health coverage should *not* file Forms 1094-C and 1095-C or Forms 1094-B or 1095-B. The plan sponsor of the multiemployer plan will file Forms 1094-B or 1095-B and distribute a copy of the Form 1095-B to the individual listed thereon by February 1, 2016.

### ➤ **Insured**

A small employer that offers employer-sponsored *insured* health coverage should *not* file Forms 1094-C and 1095-C. The insurer will file Forms 1094-B and 1095-B to report information for employees who enrolled in the coverage and distribute a copy of the Form 1095-B to the individual listed thereon by February 1, 2016.

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