

## EXTENSION OF THE DUE DATES FOR 2015 INFORMATION REPORTING UNDER I.R.C. §§ 6055 AND 6056

Notice 2016-4

### **PURPOSE**

This notice extends the due dates for the 2015 information reporting requirements (both furnishing to individuals and filing with the Internal Revenue Service (Service)) for insurers, self-insuring employers, and certain other providers of minimum essential coverage under section 6055 of the Internal Revenue Code (Code), and the information reporting requirements for applicable large employers under section 6056 of the Code. Specifically, this notice extends the due date (1) for furnishing to individuals the 2015 Form 1095-B, *Health Coverage*, and the 2015 Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, from February 1, 2016, to March 31, 2016, and (2) for filing with the Service the 2015 Form 1094-B, *Transmittal of Health Coverage Information Returns*, the 2015 Form 1095-B, *Health Coverage*, the 2015 Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and the 2015 Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, from February 29, 2016, to May 31, 2016, if not filing electronically, and from March 31, 2016, to June 30, 2016 if filing electronically. This notice also provides guidance to individuals who might not receive a Form 1095-B or Form 1095-C by the time they file their 2015 tax returns.

The Service is prepared to accept filings of the information returns on Forms 1094-B, 1095-B, 1094-C, and 1095-C beginning in January 2016. Following consultation with stakeholders, however, the Department of the Treasury (Treasury) and the Service have determined that some employers, insurers, and other providers of minimum essential coverage need additional time to adapt and implement systems and procedures to gather, analyze, and report this information. Notwithstanding the extensions provided in this notice, employers and other coverage providers are encouraged to furnish statements and file the information returns as soon as they are ready.

## **BACKGROUND**

Section 6055 and section 6056 were added to the Internal Revenue Code by sections 1502 and 1514 of the Patient Protection and Affordable Care Act (ACA), enacted March 23, 2010, Pub. L. No. 111-148. Section 6055 requires health insurance issuers, self-insuring employers, government agencies, and other providers of minimum essential coverage to file and furnish annual information returns and statements regarding coverage provided. Section 6056 requires applicable large employers (generally those with 50 or more full-time employees, including full-time equivalents, in the previous year) to file and furnish annual information returns and statements relating to the health insurance that the employer offers (or does not offer) to its full-time employees. Section 6056 was amended by sections 10106(g) and 10108(j) of the ACA and was further amended by section 1858(b)(5) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011. Section 36B, which was added to the Code by section 1401 of the ACA, provides a premium tax credit for eligible individuals who

enroll in coverage through a Health Insurance Marketplace (Marketplace). Section 5000A, which was added to the Code by section 1501(b) of the ACA, generally provides that individuals must have minimum essential coverage, qualify for an exemption from the minimum essential coverage requirement, or make an individual shared responsibility payment when they file their federal income tax return.

Section 6721 of the Code imposes a penalty for failing to timely file an information return or filing an incorrect or incomplete information return. Section 6722 of the Code imposes a penalty for failing to timely furnish an information statement or furnishing an incorrect or incomplete information statement. Section 6721 and 6722 penalties are imposed with regard to information returns and statements listed in section 6724(d) of the Code, and section 6724(d) lists the information returns and statements required by sections 6055 and 6056.

Final regulations, published on March 10, 2014, relating to the reporting requirements under sections 6055 and 6056, specify the deadlines for information reporting required by those sections. See Information Reporting of Minimum Essential Coverage, T.D. 9660, 79 FR 13220-01; Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer-Sponsored Plans, T.D. 9661, 79 FR 13231-01. The regulations under section 6055 provide that every person that provides minimum essential coverage to an individual during a calendar year must file with the Service an information return and a transmittal on or before the following February 28 (March 31 if filed electronically) and must furnish to the responsible individual identified on the return a written statement on or before January 31 following that calendar year. (In 2016, the January 31 and February 28 due dates

referred to above in this paragraph and in the following paragraph fall on weekend days; accordingly, in 2016 these two due dates are February 1 and February 29, respectively.) The Service has designated Form 1094-B and Form 1095-B to meet the requirements of the section 6055 regulations.

The regulations under section 6056 require every applicable large employer or a member of an aggregated group that is determined to be an applicable large employer (ALE member) to file with the Service an information return and a transmittal on or before February 28 (March 31 if filed electronically) of the year following the calendar year to which it relates and to furnish to full-time employees a written statement on or before January 31 following that calendar year. The Service has designated Form 1094-C and Form 1095-C to meet the requirements of the section 6056 regulations.

The preambles to the section 6055 and section 6056 regulations (T.D. 9660, 79 FR 13220; T.D. 9661, 79 FR 13231-01) provide that, for 2015 coverage, the Service will not impose penalties under section 6721 and section 6722 on reporting entities that can show that they have made good faith efforts to comply with the information reporting requirements, and that this relief applies only to furnishing and filing incorrect or incomplete information, including TINs or dates of birth, reported on a return or statement and not to a failure to timely furnish or file a statement or return. Notice 2015-87, 2015-52 I.R.B. 889, reiterates that relief, and Notice 2015-68, 2015-41 I.R.B. 547, provides additional information about that relief with regard to reporting under section 6055. The preambles also note, however, the general rule that, under section 6724 and the related regulations, the section 6721 and section 6722 penalties may be waived if a failure to timely furnish or file a statement or return is due to reasonable

cause, that is, the reporting entity demonstrates that it acted in a responsible manner and the failure is due to significant mitigating factors or events beyond the reporting entity's control.

### **TRANSITION RELIEF**

This notice extends the due date for furnishing the 2015 Form 1095-B and the 2015 Form 1095-C from February 1, 2016, to March 31, 2016. This notice also extends the due date for filing with the Service the 2015 Form 1094-B and the 2015 Form 1094-C from February 29, 2016, to May 31, 2016, if not filing electronically, and from March 31, 2016, to June 30, 2016, if filing electronically. In view of these extensions, the provisions regarding automatic and permissive extensions of time for filing information returns and permissive extensions of time for furnishing statements will not apply to the extended due dates. Employers or other coverage providers that do not comply with these extended due dates are subject to penalties under section 6722 or 6721 for failure to timely furnish and file. However, employers and other coverage providers that do not meet the extended due dates are still encouraged to furnish and file, and the Service will take such furnishing and filing into consideration when determining whether to abate penalties for reasonable cause. The Service will also take into account whether an employer or other coverage provider made reasonable efforts to prepare for reporting the required information to the Service and furnishing it to employees and covered individuals, such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the Service, or testing its ability to transmit information to the Service. In addition, the Service will take into account the extent to which the employer or other coverage provider is taking steps to ensure that it is able to comply with the reporting requirements for 2016.

Some individual taxpayers may be affected by the extension of the due date for employers to furnish information under section 6056 on Form 1095-C. Under section 36B(c)(2)(C), an employee is not eligible for the premium tax credit for any month for which the employee is eligible for coverage under an eligible employer-sponsored plan that provides minimum value **and** is affordable (or for any month for which the employee enrolls in an eligible employer-sponsored plan, regardless of whether the plan is affordable or provides minimum value). The Form 1095-C generally includes information on the coverage (if any) offered by the applicable large employer to the full-time employee. The information reported will assist the employee in determining eligibility for the premium tax credit. However, most individuals offered employer-provided coverage will not be affected by the extension. This is partly because section 1.36B-2(c)(3)(v)(A)(3) of the Income Tax Regulations provides that an offer of employer-sponsored coverage is generally treated as unaffordable for section 36B purposes if the individual enrolls in coverage through the Marketplace and receives the benefit of advance payments of the premium tax credit based on a determination from the Marketplace that the offer of employer-sponsored coverage is unaffordable. Specifically, the extension will not affect employees who enrolled in the employer-sponsored coverage or in other coverage that was not offered through the Marketplace; employees who for any other reason would not qualify for a premium tax credit (for example, an employee who qualifies for Medicare or has household income in excess of the limits); employees who enrolled in coverage through the Marketplace and received the benefit of advance payments of the premium tax credit based on a determination by

the Marketplace that the employee's offer of employer-sponsored coverage was unaffordable; or employees who did not enroll in any coverage.

Nonetheless, some employees (and related individuals) who enrolled in coverage through the Marketplace but did not receive a determination from the Marketplace that the offer of employer-sponsored coverage was not affordable could be affected by the extension if they do not receive their Forms 1095-C before they file their income tax returns. As a result, for 2015 only, individuals who rely upon other information received from employers about their offers of coverage for purposes of determining eligibility for the premium tax credit when filing their income tax returns need not amend their returns once they receive their Forms 1095-C or any corrected Forms 1095-C. Individuals need not send this information to the Service when filing their returns but should keep it with their tax records.

Similarly, some individual taxpayers may be affected by the extension of the due date for providers of minimum essential coverage to furnish information under section 6055 on either Form 1095-B or Form 1095-C. Individuals generally use this information to confirm that they had minimum essential coverage for purposes of sections 36B and 5000A. Because, as a result of the extension, individuals may not have received this information before they file their income tax returns, for 2015 only individuals who rely upon other information received from their coverage providers about their coverage for purposes of filing their returns need not amend their returns once they receive the Form 1095-B or Form 1095-C or any corrections. Individuals need not send this information to the Service when filing their returns but should keep it with their tax records.

The extensions of due dates provided by this notice apply only to section 6055 and section 6056 information returns and statements for calendar year 2015 filed and furnished in 2016 and do not require the submission of any request or other documentation to the Service. Because these extensions apply automatically to all filers and are more generous than extensions of time to file or furnish 2015 returns and information statements under sections 6055 and 6056 that have already been requested by some filers in submissions to the Service, such requests will not be formally granted. These extensions for the information reporting provisions of sections 6055 and 6056 for calendar year 2015 have no effect on these information reporting provisions for other years or on the effective date or application of other ACA provisions (except as described above with respect to sections 36B and 5000A for 2015).

#### **DRAFTING INFORMATION**

The principal author of this notice is Michael E. Hara of the Office of Associate Chief Counsel (Procedure and Administration). For further information regarding this notice contact Michael Hara at (202) 317-6845 (not a toll-free call).