

Transition Relief Related to Health Coverage Reporting Required by Sections 6055 and 6056 for 2020

Notice 2020-76

PURPOSE

This notice extends the due date for certain 2020 information-reporting requirements under sections 6055 and 6056 of the Internal Revenue Code (Code) from January 31, 2021, to March 2, 2021. This notice also provides relief from the section 6721 and section 6722 penalties for certain aspects of the 2020 information-reporting requirements under sections 6055 and 6056.

BACKGROUND

Sections 6055 and 6056 were added to the Code by sections 1502 and 1514, respectively, of the Patient Protection and Affordable Care Act (PPACA), enacted March 23, 2010, Pub. L. No. 111-148, 124 Stat. 119, 250, 256. 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 equivalent employees, in the previous year) to file and furnish annual information returns and statements relating to the health insurance, if any, that the employer offers to its full-time employees. Section 6056 was amended by sections 10106(g) and 10108(j) of the PPACA and was further amended by section 1858(b)(5) of the

Department of Defense and Full-Year Continuing Appropriations Act, 2011, enacted April 15, 2011, Pub. L. No. 112-10, 125 Stat. 38, 169.

Section 36B, which was added to the Code by section 1401 of the PPACA, provides a premium tax credit for eligible individuals who enroll, or enroll a family member, in coverage through a Health Insurance Marketplace. Section 5000A, which was added to the Code by section 1501(b) of the PPACA, 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 11081 of Pub. L. No. 115-97, 131 Stat. 2054, 2092, enacted December 22, 2017, and commonly referred to as the Tax Cuts and Jobs Act, reduces the individual shared responsibility payment to zero for months beginning after December 31, 2018.

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

The regulations under section 6055 require every person that provides minimum essential coverage to an individual during a calendar year to file with the Internal Revenue Service (IRS) an information return and a transmittal on or before the following February 28 (March 31 if filed electronically) and to furnish to the responsible individual identified on the return a written statement on or before January 31 following the

calendar year to which the statement relates. See § 1.6055-1(f) and (g)(4) of the Income Tax Regulations; see also section 6055(c)(2). (In 2021, the January 31 furnishing due dates referred to above in this paragraph and in the following paragraph fall on a weekend day; accordingly, in 2021 such furnishing will be timely if done on February 1. See section 7503.) Except as provided in the following paragraph, the IRS has designated Form 1094-B, *Transmittal of Health Coverage Information Returns*, and Form 1095-B, *Health Coverage*, 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 IRS 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 the calendar year to which the statement relates. See § 301.6056-1(e) and (g) of the Procedure and Administration Regulations; see also section 6056(c)(2). The IRS has designated Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, to meet the requirements of the section 6056 regulations. In addition, an ALE member that offers health coverage through a self-insured health plan must complete the reporting required under section 6055 (that is, information about each individual enrolled in the self-insured health plan) using Form 1095-C, Part III, rather than Form 1095-B.¹ ALE members use Form 1095-

¹ See the Instructions for Forms 1094-C and 1095-C for the option to file Form 1094-B and Form 1095-B, rather than Form 1094-C and Form 1095-C, to report coverage of certain non-employees.

C, Part III to meet the section 6055 reporting requirement for all employees, but for employees who are not full-time, ALE members report only certain information to reflect that the Form 1095-C is being used to complete section 6055 reporting but not section 6056 reporting, which applies only to full-time employees.

The regulations under sections 6055 and 6056 allow the IRS to grant an extension of time of up to 30 days to furnish Forms 1095-B and 1095-C for good cause shown. See §§ 1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A). In addition, filers of Forms 1095-B, 1094-C, and 1095-C may receive an automatic 30-day extension of time to file these forms with the IRS by submitting Form 8809, *Application for Extension of Time To File Information Returns*, on or before the due date for filing those forms. See §§ 1.6081-1 and 1.6081-8. In limited situations, filers who submit Form 8809 before the automatic 30-day extension period expires may also receive an additional 30-day extension of time to file Forms 1095-B, 1094-C, and 1095-C with the IRS. See id.

The preambles to the section 6055 and section 6056 regulations (T.D. 9660, 79 FR 13220, 2014-13 I.R.B. 842; T.D. 9661, 79 FR 13231, 2014-13 I.R.B. 855) provided that, for reporting of 2015 offers and coverage, the IRS would not impose penalties under sections 6721 and 6722 on reporting entities that could show that they made good-faith efforts to comply with the information-reporting requirements. This relief applied only to furnishing and filing incorrect or incomplete information reported on a statement or return and not to a failure to timely furnish or file a statement or return. Notice 2015-87, 2015-52 I.R.B. 889, reiterated that relief, and Notice 2015-68, 2015-41 I.R.B. 547, provided additional information about that relief with regard to reporting under section 6055. The preambles also noted 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.

Through a series of Internal Revenue Bulletin notices, the Department of the Treasury (Treasury Department) and the IRS extended the due dates for information-reporting requirements under sections 6055 and 6056 for furnishing statements to individuals for the years 2015, 2016, 2017, 2018, and 2019. See Notice 2016-4, 2016-3 I.R.B. 279 (2015); Notice 2016-70, 2016-49 I.R.B. 784 (2016); Notice 2018-06, 2018-2 I.R.B. 300 (2017); Notice 2018-94, 2018-51 I.R.B.1042 (2018); Notice 2019-63, 2019-51 I.R.B. 1390 (2019). In these notices, in general,² the Treasury Department and the IRS extended the furnishing due date for the Forms 1095-B and 1095-C by 30 days. Each notice also extended the good-faith transition relief from the section 6721 and section 6722 penalties to the information-reporting requirements under sections 6055 and 6056 for the years 2015, 2016, 2017, 2018, and 2019, respectively.

In Notices 2018-94 and 2019-63, the Treasury Department and the IRS stated that, because the individual shared responsibility payment is reduced to zero for months beginning after December 31, 2018, they were studying whether and how the reporting requirements under section 6055 should change, if at all, for future years. Notice 2019-63 also provided penalty relief for Form 1095-B filers who chose to furnish the forms only upon request and did so in accordance with the procedures described in the notice.

TRANSITION RELIEF

A. Extension of Due Date for Furnishing Information Statements to Individuals under

² For 2015 information statements, the furnishing due date was extended by 60 days. For 2018 information statements, the furnishing due date was extended by 30 days but the 30th day fell on a Saturday, so the Forms 1095-B and 1095-C were timely if filed by the 32nd day.

Sections 6055 and 6056 for 2020

The Treasury Department and the IRS have determined that a substantial number of employers, insurers, and other providers of minimum essential coverage need additional time beyond the January 31, 2021, due date to gather and analyze the information and prepare the 2020 Forms 1095-B and 1095-C to be furnished to individuals. Accordingly, this notice extends the due date for furnishing the 2020 Forms 1095-B and 1095-C, from January 31, 2021, to March 2, 2021. In view of this automatic extension to March 2, 2021, the provisions under §§ 1.6055-1(g)(4)(i)(B)(1) and 301.6056-1(g)(1)(ii)(A) allowing the IRS to grant an extension of time of up to 30 days to furnish Forms 1095-B and 1095-C will not apply to the extended due date. Because the extension of the due date to furnish information statements to individuals granted in this notice applies automatically and is as generous as the permissive 30-day extension of time to furnish 2020 information statements under sections 6055 and 6056 that may be requested by some reporting entities in submissions to the IRS, the IRS will not formally respond to such requests. Notwithstanding the extension provided in this notice, employers and other coverage providers are encouraged to furnish 2020 information statements as soon as they are able.

This notice does not extend the due date for filing with the IRS the 2020 Forms 1094-B, 1095-B, 1094-C, or 1095-C. However, this notice does not affect the provisions regarding an automatic extension of time for filing information returns; the automatic extension remains available under the normal rules for employers and other coverage providers who submit a Form 8809 on or before the due date. See §§ 1.6081-1 and 1.6081-8. This notice also does not affect the provisions regarding additional

extensions of time to file. See id.

B. Relief Regarding the Furnishing Requirement under Section 6055 for 2020

Because the individual shared responsibility payment is zero in 2020, an individual does not need the information on Form 1095-B to compute his or her federal tax liability or file an income tax return with the IRS. Nonetheless, reporting entities required to furnish Form 1095-B to individuals must expend resources to do so. At this time, the Treasury Department and the IRS have determined as a matter of enforcement priorities that, for 2020, relief from the penalty under section 6722 for failing to furnish a statement as required under section 6055 is in the interest of sound tax administration in certain cases. In particular, the IRS will not assess a penalty under section 6722 against reporting entities for failing to furnish a Form 1095-B to responsible individuals in cases where the following two conditions are met (the 2020 section 6055 furnishing relief). First, the reporting entity must post a notice prominently on its website stating that responsible individuals may receive a copy of their 2020 Form 1095-B upon request, accompanied by an email address and a physical address to which a request may be sent, as well as a telephone number that responsible individuals can use to contact the reporting entity with any questions. Second, the reporting entity must furnish a 2020 Form 1095-B to any responsible individual upon request within 30 days of the date the request is received. The reporting entity may furnish these statements electronically if it meets the requirements provided in § 1.6055-2.

As noted earlier, ALE members that offer self-insured health plans are generally required to use Form 1095-C, Part III, to meet the section 6055 reporting requirements,

instead of Form 1095-B. However, because of the combined reporting under sections 6055 and 6056 on the Form 1095-C for full-time employees of ALE members enrolled in self-insured health plans, the 2020 section 6055 furnishing relief does not extend to the requirement to furnish Forms 1095-C to full-time employees. Accordingly, for full-time employees enrolled in self-insured health plans, penalties will continue to be assessed consistent with prior enforcement policies for any failure by ALE members to furnish Form 1095-C, including Part III, according to the applicable instructions. However, the 2020 section 6055 furnishing relief does extend to penalty assessments in connection with the requirement to furnish Form 1095-C to any employee enrolled in an ALE member's self-insured health plan who is not a full-time employee for any month of 2020,³ subject to the requirements of the 2020 section 6055 furnishing relief.

The 2020 section 6055 furnishing relief does not affect assessment of penalties associated with the requirement or the deadline to file with the IRS the 2020 Forms 1094-B or 1095-B or the Forms 1094-C or 1095-C, as applicable.

C. Final Extension of Good-Faith Relief for Reporting and Furnishing under Sections 6055 and 6056 for 2020

This notice also provides a final extension of relief from penalties under sections 6721 and 6722 to reporting entities that report incorrect or incomplete information on the return or statement when these entities can show they made good-faith efforts to comply with the information-reporting requirements under sections 6055 and 6056 for 2020 (both for furnishing to individuals and for filing with the IRS). This relief applies to missing and inaccurate taxpayer identification numbers and dates of

³ For such an employee, the Instructions for Forms 1094-C and 1095-C provide that the employer is to enter code 1G on line 14 for the Form 1095-C, but the ALE member is not otherwise required to complete Part II of Form 1095-C.

birth, as well as other information required on the return or statement. Reporting entities must make a good-faith effort to comply with the regulations under sections 6055 and 6056 to be eligible for this relief. In determining good faith, the IRS will take into account whether an employer or other coverage provider made reasonable efforts to prepare for reporting the required information to the IRS 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 IRS or testing its ability to transmit information to the IRS. Reporting entities that fail to file an information return or furnish a statement by the extended due dates, except as otherwise provided in this notice, are not eligible for relief. As this good-faith relief was intended to be transitional relief, this is the last year the Treasury Department and the IRS intend to provide this relief.

D. Future Years and Request for Comments

In Notice 2019-63, the Treasury Department and the IRS requested comments as to whether an extension of the due date for furnishing statements to individuals under section 6056 would be necessary for future years and, if so, why. Very few comments were submitted, which indicates that this relief may no longer be necessary. In Notice 2019-63, the Treasury Department and the IRS also requested comments as to whether and how the reporting requirements under section 6055 should change, if at all, for future years; only one comment was submitted.

The Treasury Department and the IRS are renewing the request for comments related to furnishing requirements under sections 6055 and 6056. Unless we receive comments that explain why this relief continues to be necessary, no relief related to the

furnishing requirements under sections 6055 and 6056 will be granted in future years. Taxpayers and reporting entities are strongly encouraged to submit comments electronically via the Federal eRulemaking Portal at www.regulations.gov (type “IRS-2020-0037” in the search field on the regulations.gov homepage to find this notice and submit comments).

Alternatively, taxpayers and reporting entities may mail comments to:

Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2020-76) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Comments must be submitted by February 1, 2021. All comments received will be available for public inspection on www.regulations.gov. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

CONTACT INFORMATION

The principal author of this notice is Danielle Pierce of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice contact Danielle Pierce at (202) 317-5150 (not a toll-free call).