

Legislation Reduces Burden of Employer Reporting

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Congress passed two bills to reduce the burden of employer reporting related to the Affordable Care Act that President Biden signed into law on December 23, 2024. While small, these bills pack a big punch as they significantly reduce the employer (and carrier) responsibilities for Form 1095-C (and Form 1095-B) reporting.

■ Paperwork Burden Reduction Act

This Act provides an alternative furnishing method for Forms 1095-C and 1095-B, offering additional flexibility to employers and carriers responsible for sending these Forms to covered individuals.

Currently, most large employers are required to furnish a Form 1095-C to full-time employees. For employers that are self-funded (including level-funded), the employer is required to furnish a Form 1095-C (or Form 1095-B) to any primary insured. In most cases, these Forms are mailed to the home address of the employee or furnished electronically with appropriate notice and consent.

The new law provides that Form 1095-C or Form 1095-B may be furnished to individuals only upon request. In other words, employers are no longer required to furnish these Forms to covered individuals unless the individual requests it.

Employers (or carriers) that take advantage of this relief must:

- Ensure any request for an applicable Form is fulfilled by the later of January 31 or 30 days after the request is made; and
- Provide timely notice of the option. No guidance has been issued on the language for the notice or how it should be displayed or distributed. Employers should await this guidance before relying on this relief.

This law applies to statements with respect to any returns after 2023. This means, employers preparing reporting for calendar year 2024 can take advantage of this relief.

Even though employers relying on this alternative furnishing method are not required to furnish a Form 1095-C to individuals (unless requested), the Forms 1095-C (and 1095-B) must still be completed and timely filed with the IRS along with a Form 1094-C (or Form 1094-B). All Forms 1095-C along with Form 1094-C for calendar year 2024 must be filed electronically with the IRS by March 31, 2025.

California, Massachusetts, New Jersey, Rhode Island and the District of Columbia have individual health insurance mandates with their own requirements for furnishing information regarding health coverage to residents of the state. All of these (except Massachusetts) allow reporting via the federal Forms 1095-C and 1095-B. It is not clear how the states with individual mandate requirements will respond to this federal action, as they do not have a similar “opt-in” provision. Employers who are subject to both state and federal reporting will need to await direction from the state for any further flexibility. Otherwise, they should be prepared to furnish statements to covered individuals as they have in prior years (e.g., by mail).

Massachusetts requires reporting on a separate Form 1099-HC and this requirement is unaffected by the change in federal reporting.

■ Employer Reporting Improvement Act

This bill:

- Allows a date of birth to be used instead of a tax identification number on the Form 1095-C or 1095-B when the tax identification number is not available. The tax identification number is usually the social security number.
- Codifies that an employer (or carrier) may furnish Form 1095-C (or Form 1095-B) electronically when the individual has consented to electronic delivery.
- Provides at least 90 days (versus 30 days) for an employer to respond to an IRS letter 226-J proposing an assessment under the employer shared responsibility mandate. This provision is effective for assessment proposed in taxable years beginning after 2023.
- Implements a 6-year statute of limitations for shared responsibility penalty assessments. Prior to this law, no statute of limitations applied.

■ Employer Action

While these two bills provide welcome relief, the timing is not the most favorable.

Employers should:

- With respect to furnishing Forms 1095-C for CY 2024, the due date is **March 3, 2025**. Given the relief afforded in the Paperwork Burden Reduction Act:
 - Consider whether to take advantage of the relief and only furnish the Forms to employees who request them. This will require that appropriate notice is provided to employees. Currently, there is no guidance on how to provide such notice. The IRS will likely issue this guidance, but timing is uncertain.
 - Absent guidance, employers with employees who are residents of a state with an individual mandate may still need to furnish a 1095-C (or 1095-B) to meet state requirements.
 - Given the short time frame before the March 3, 2025 deadline, some employers may consider furnishing the Forms 1095-C as they have in past years (e.g., by mail) and then move to the “opt-in” method for calendar year 2025 reporting (due in 2026).
- Always check the response date on any letter 226-J. While the time frame for a response will be longer – it will not apply until the IRS begins assessing penalties for calendar year 2024. If you receive a letter 226-J with an assessment applicable before 2024 (e.g., 2022), it will be subject to the 30-day response window.