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IRS EXTENDS DEADLINE TO FURNISH FORMS 1095-C (AND FORMS 1095-B) TO EMPLOYEES/INDIVIDUALS AND GOOD FAITH TRANSITION RELIEF FOR EMPLOYERS/INSURERS

On November 29, 2018, the Internal Revenue Service (IRS) released Notice 2018-94 (hereinafter "Notice"). The Notice extended the deadline for employers and insurers to furnish Forms 1095-C and Forms 1095-B to employees/insureds to **March 4, 2019**. Originally, these Forms were required to be furnished to employees/insureds by January 31, 2019. This Notice does **not** extend the current deadlines for **filing** an employer's or insurer's Forms with the IRS, which continue to be February 28, 2019 for employers/insurers who file paper copies of these Forms, and April 1, 2019 for employers/insurers who file electronically.

The Notice also grants "good faith" relief to employers and insurers filing their 2018 Forms. This "good faith" relief provides employers (and insurers) penalty relief for furnishing or filing inaccurate or incomplete Forms, so long as the employer/insurer furnishes/files these Forms in good faith. The relief may also apply for missing and inaccurate taxpayer identification numbers and dates of birth. However, employers/insurers will not be provided penalty relief if they intentionally furnish or file inaccurate and incomplete Forms, or file and furnish these Forms after their respective deadlines.

No Action Required

Employers and insurers should be aware of the extension of the deadline to furnish Forms 1095-C and 1095-B to employees and insureds by March 4, 2019. In addition, employers and insurers should be aware of the extension of good faith compliance relief.

For Notice 2018-94 see: <https://www.irs.gov/pub/irs-drop/n-18-94.pdf>

QUESTION OF THE MONTH

When Is a Dependent Child Considered to Be Age 26 for Purposes of Terminating Group Health Plan Coverage?

QUESTION: Our Company sponsors a group health plan that offers coverage to eligible employees and dependent children. We understand that we must make coverage available until a child is age 26. At what point during the month of the child's 26th birthday is it permissible for our plan to terminate coverage for the child?

ANSWER: Group health plans that offer dependent coverage are required to continue making coverage available for an employee's child until the child's 26th birthday—regardless of the child's residency, financial dependence, student status, employment, or other factors. Your plan will satisfy the dependent coverage requirement if coverage is provided until a child attains 26 years of age. As an example, assume an employee's child's birthday is July 17. The plan need only offer coverage for the child through the day before his or her 26th birthday—i.e., July 16.

Keep in mind, however, that if your company is an applicable large employer (i.e., if you employed an average of 50 or more full-time employees (or equivalents) in the preceding year), you could face potential employer shared responsibility penalties under Code § 4980H if you do not offer coverage through the last day of the month containing the 26th birthday of an employee's child. As background, applicable large employers may be subject to penalties if they fail to offer adequate health insurance to full-time employees and their dependents. For this purpose, "dependents" means an employee's children, as defined in Code § 152(f)(1), who are under 26 years of age (but does not include stepchildren or foster children). Thus, for purposes of Code § 4980H, a child is a dependent for the entire month during which he or she attains age 26—in the example above, coverage must be offered through July 31 to avoid potential penalties.

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