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Employee Benefits Compliance

## ACA Reporting Relief FAQ

### Overview

The Affordable Care Act (ACA) created two reporting requirements, one of which is ALE reporting. This reporting requires applicable large employers (ALEs)—those subject to Pay or Play—to identify their full-time employees and report on whether they offer these employees coverage that is affordable and provides minimum value.

ALE reporting requires: (1) statements sent to individuals/employees using Form 1095-C and (2) transmittal of required information to the IRS using Forms 1094-C and 1095-C.

In December 2024, Congress passed and President Biden signed the [Paperwork Burden Reduction Act](#) and the [Employer Reporting Improvement Act](#) (see [Alert 2024-05](#)). In part, these laws seek to ease the administrative burden of reporting under the ACA for employer plan sponsors by amending the distribution requirements for Forms 1095-C (and -B, for non-ALEs with self-insured plans) to individuals/employees. While this relief is welcome news, note that it does not change the requirement for ALEs to complete and submit Forms 1094-C and 1095-C to the IRS. Nor does it change applicable state individual mandate reporting requirements.

This FAQ addresses the most common questions employer plan sponsors have had about this reporting relief. Note that the IRS is expected to provide additional information, specifically with respect to the notice requirement for employers to only furnish individuals with their Form 1095-C when requested (the "alternative manner of furnishing statements to individuals"). We will provide additional information on this guidance once available. In the meantime, employers should continue to work with their ACA reporting vendor to generate accurate 1094-C and 1095-C Forms for filing with the IRS and applicable state individual mandate reporting requirements. ALEs intending to respond to requests for Form 1095-C by providing the form in electronic format should also ensure proper consent to electronic distribution has been obtained.

### Frequently Asked Questions

#### **What are the key provisions of the Paperwork Burden Reduction Act?**

Beginning with the 2024 calendar year reporting (due in 2025), ALEs are no longer required to automatically provide Forms 1095-C to individuals unless affirmatively requested. To take advantage of this relief, employers must provide a notice of availability and right to request the Form 1095-C. Additional guidance regarding this notice requirement is expected from the IRS. Until such guidance is issued, employers seeking to take advantage of this relief should follow the IRS' guidelines on the alternative manner of furnishing statements to non-full-time employees set forth in the [2024 Instructions for Forms 1094-C and 1095-C](#).

#### **What are the key provisions of the Employer Reporting Improvement Act?**

The Employer Reporting Improvement Act codifies previous regulations allowing for electronic delivery of Forms 1095-C to individuals with consent. Under the new law, consent for electronic delivery of the Form 1095-C will remain in effect until revoked. The law also provides relief when an individual's Social Security Number is not available, allowing their date of birth to be used in substitution on the Form 1095-C (and -B). Regarding IRS-proposed penalties under the "Pay or Play" mandate, employers will have 90 days to submit their response to IRS Letter 226-J, and a six-year statute of limitations will apply for collecting any "Pay or Play" penalties.

**Do we still need to complete ACA reporting?**

Yes. ACA reporting is still required. While the Employer Reporting Improvement Act and the Paperwork Burden Reduction Act made significant changes on the delivery method of Forms 1095-C to individuals, the legislation does not change the existing requirement that ALEs complete the reporting and submit Forms 1094-C and 1095-C to the IRS (generally by March 31). The IRS will continue to use these forms to enforce the "Pay or Play" mandate and verify eligibility for premium tax credits on the Marketplace.

**Do we still need to comply with state individual mandate reporting requirements?**

Yes. The ACA reporting relief provided under the Paperwork Burden Reduction Act is only applicable to federal ACA reporting requirements. Importantly, employers in states with their own individual mandates and independent reporting requirements will still need to satisfy those state reporting obligations. Historically, employers were generally able to defer to the federal deadline to furnish individual forms without penalty. However, that will no longer be the case if an employer adopts the alternative manner of furnishing statements to individuals and only provides the Form 1095-C upon request. Employers subject to these state individual mandates should confirm with their ACA reporting vendor that they will continue distributing 1095-C Forms in a manner that satisfies state reporting requirements.

**What options are available for distributing the Form 1095-C?**

Beginning with the 2024 calendar year reporting (due in 2025), employers may:

- Continue to automatically furnish paper (or with consent, electronic) Forms 1095-C to individuals.
- Adopt the alternative manner of furnishing statements to individuals by providing proper notice of availability and right to request the Form 1095-C. If requested, the Form 1095-C must be provided by January 31, or 30 days after the request, whichever is later. The Form 1095-C may be provided electronically with proper consent.

**What are the notice requirements for the alternative manner of furnishing statements to individuals?**

Under the alternative manner of furnishing statements to individuals, an employer will only have to furnish individuals with their Form 1095-C if the individual has requested a copy. When requested, the form must be provided by the later of January 31, or 30 days after the request. To adopt this manner of furnishing statements to individuals, the IRS requires that a clear, conspicuous, and accessible notice be given to individuals. Additional guidance from the IRS is expected on how the notice should be provided and in what manner. Until this guidance is released, it's recommended employers follow the IRS' requirements for the alternative manner of furnishing statements to non-full-time employees. In accordance with these requirements:

- The employer must provide clear and conspicuous notice, in a location on its website that is reasonably accessible to all individuals, stating that individuals may receive a copy of their statement upon request. The notice must include an email address, a physical address to which a request for a statement may be sent, and a telephone number that individuals may use to contact the employer with any questions. A notice posted on an employer's website must be written in plain, non-technical terms and with letters of a font size large enough, including any visual clues or graphical figures, to call to a viewer's attention that the information pertains to tax statements reporting that individuals had health coverage.
- The employer must post the notice on its website by January 31, and retain the notice in the same location on its website through October 15.

**When must the Form 1095-C be provided to an individual upon request?**

When requested, the Paperwork Burden Reduction Act requires the Form 1095-C to be provided by the later of January 31, or 30 days after the request. However, what remains unclear is whether the IRS intends to use this January 31 deadline, or whether it will allow statements to be furnished by the later of the IRS' existing permanently extended deadline of March 2, or 30 days following the request. Additional IRS guidance on this issue would be helpful. Until such guidance is issued, best practice would be to provide the requested Form 1095-C by the later of January 31, or 30 days following the request.

**What are the requirements for furnishing Form 1095-C to an individual electronically?**

Treasury regulations already allow for electronic delivery of Forms 1095-C to individuals with affirmative consent. Notably, the consent must relate specifically to receiving the Form 1095-C in an electronic format. An individual may consent on paper or electronically, such as by email. If consent is on paper, the individual must confirm the consent electronically. Once consent is obtained, the Form 1095-C may be furnished electronically by email or by informing the individual how to access the statement online. The Employer Reporting Improvement Act codifies these regulations and further provides that consent for electronic delivery of the Form 1095-C will remain in effect until revoked.

**What should I be discussing with my ACA reporting vendor in light of this new legislation?**

Many employers have contracted with ACA reporting vendors to assist with their MEC and ALE reporting under the ACA. Employers looking to take advantage of the reporting relief available under the Paperwork Burden Reduction Act and Employer Reporting Improvement Act should discuss the following with their reporting vendor:

- Whether they are obligated under the ACA reporting vendor contract to distribute copies of the Forms 1095-C to individuals for the upcoming reporting cycle.
- If obligated to distribute copies of the Forms 1095-C to individuals for the upcoming reporting cycle, is there any leeway to send these forms electronically (instead of sending – and paying for – paper copies).
- If the alternative manner of furnishing statements to individuals is adopted, what procedures are needed to respond to an individual's request for the Form 1095-C.
- Confirm the ACA reporting vendor will continue to comply with applicable state individual mandate reporting requirements.

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