

January 6, 2024

Services

[Employee Benefits and Executive Compensation](#)

[Fiduciary Duties and Governance](#)[Qualified Retirement Plans](#)[Taft-Hartley Plans](#)[Health and Welfare Plans](#)[Government Plans](#)[Higher Education](#)[Employee Stock Ownership Programs \(ESOPs\)](#)[Executive Compensation and Nonqualified Plans](#)[ERISA Fiduciary and Benefits Litigation](#)[College Savings and ABLE Plans](#)[Mandatory Paid and Unpaid Leave](#)[Audits and Investigations](#)

New Legislation Allows Forms 1095-C to Be Distributed Only Upon Request

On December 23, 2024, the President signed two bills aimed at simplifying employers' Affordable Care Act ("ACA") reporting requirements: the Paperwork Burden Reduction Act and the Employer Reporting Improvement Act. The ACA generally requires applicable large employers to annually report information to employees and the IRS about the group health plan coverage the employer offers.

Changes to Form 1095-C Delivery

The Paperwork Burden Reduction Act (the "Act") limits the circumstances under which Forms 1095-B and 1095-C must be provided to employees. Starting with the 2024 calendar year, instead of mailing Forms 1095-C to employees, the Act allows employers to furnish Forms 1095-C only upon the request of employees. As described in a previous [Client Alert](#), prior IRS guidance allowed Form 1095-B to be provided in a similar manner, but the Act codifies this option for both Forms.

To take advantage of this relief, the employer must provide a notice to employees that the Forms 1095-C are available upon request. If an individual requests a copy, the employer must provide the Form 1095-C within 30 days of the request or by January 31 of the year following the applicable calendar year, whichever is later. The Employer Reporting Improvement Act allows for electronic delivery of Form 1095-C to employees who have consented to receive communications electronically. Employers may, of course, still send Forms 1095-C to employees without waiting for a request if they prefer.

While the legislation provides relief to providing Forms 1095-C to employees, employers must still remit all Forms 1095-C to the IRS (with the corresponding Form 1094-C). Similarly, Forms 1095-B must be filed with the IRS, along with the corresponding Form 1094-B.

We expect the IRS will issue a model notice to inform employees that Form 1095-C is available upon request. Until then, employers should make a good faith effort to draft this notice.

The Employer Reporting Improvement Act

As discussed in our prior [Client Alert](#), the ACA subjects applicable large employers to employer shared responsibility payments for failure to offer full-time employees affordable group health plan coverage. Notice of potential liability for this penalty is provided by the IRS to employers in IRS Letter 226-J.

Contacts

John E. Schembari

Omaha
402.231.8886
john.schembari@kutakrock.com

Michelle M. Ueding

Omaha
402.661.8613
michelle.ueding@kutakrock.com

William C. McCartney

Omaha
949.852.5052
william.mccartney@kutakrock.com

P. Brian Bartels

Omaha
402.231.8897
brian.bartels@kutakrock.com

Ruth S. Marcott

Minneapolis
612.334.5044
ruth.marcott@kutakrock.com

Sevawn Foster Holt

Little Rock
501.975.3120
sevawn.holt@kutakrock.com

John J. Westerhaus

Omaha
402.231.8830
john.westerhaus@kutakrock.com

Robert J. Hannah

Omaha
402.661.8667
robert.hannah@kutakrock.com

Marcus P. Zelzer

Minneapolis
612.334.5037
marcus.zelzer@kutakrock.com

Emma L. Franklin

Omaha
402.231.8842
emma.franklin@kutakrock.com

Aaron D. Schuster

Kansas City
816.960.0090
aaron.schuster@kutakrock.com

Jacob S. Gray

Minneapolis
612.334.5053
jacob.gray@kutakrock.com

Jason Kotlyarov

Kansas City
816.502.4622
jason.kotlyarov@kutakrock.com

The Employer Reporting Improvement Act extends the period employers have to respond to the IRS Letter 226-J from 30 days to 90 days. This legislation also institutes a six-year statute of limitation for the IRS to assess employer shared responsibility payments that runs from the later of the due date for filing the return (e.g., Forms 1094-C and 1095-C) or the date the employer actually filed the return.

Lastly, if the employer is unable to collect the taxpayer identification number, the Employer Reporting Improvement Act permits employers to report covered individuals' (including spouses and dependents) full name and date of birth in lieu of their taxpayer identification number (e.g., social security number) on Forms 1095-C.

Next Steps for Employers

Employers should take the following steps in response to these developments:

- Prepare a compliant notice to employees about the availability of Forms 1095-C upon request.
- Decide how to distribute and post the notice.
- Establish procedures to timely deliver the Forms 1095-C to employees upon request (if electronically, ensure compliance with IRS electronic delivery requirements).
- Discuss changes with any vendors contracted to provide Forms 1095-C to employees.
- Amend vendor contracts to reflect the new delivery options.

If you have questions about Form 1095-C reporting changes, would like Kutak Rock's assistance drafting the required employee notice, or need assistance with vendor negotiations, please contact a member of Kutak Rock's [Employee Benefits and Executive Compensation practice group](#).

