



Form 1095 – Employee Communications

Issue Date: January 2016

Many employers want to provide some type of communication along with, or before, the distribution of Form 1095s to relevant employees. Although any employee communication must be tailored to meet the employer's specific circumstances, some general concepts are addressed here that can be adjusted as appropriate to help employees understand why Form 1095s are being provided, what type of information they provide, and how they are to be used.

Background

Reporting of plan and coverage information using Forms 1094 and 1095 is required to provide the IRS with the information necessary to administer and regulate the following:

- Individual Mandate – Individuals are required to be enrolled in minimum essential coverage (a “MEC” plan) for all months during the year to avoid potential penalties under the individual mandate unless they meet a specified exemption.
- Employer Mandate – Applicable large employers (ALEs), those with 50 or more full-time equivalents (FTEs), are required to offer full-time employees and their dependent children minimum value, affordable coverage to avoid potential penalties under Section 4980H (aka the “employer mandate”).
- Individual eligibility for a tax credit/subsidy through a public Exchange or Marketplace – Individuals who choose to enroll through a public Exchange or Marketplace may qualify for a tax credit/subsidy to help pay for such coverage if the individual is not enrolled in a MEC plan or is not eligible for employer-sponsored affordable, minimum value coverage and meets certain household income requirements.

All providers of an MEC plan (e.g. insurance carrier or employer sponsoring a self-funded plan) are required to report on any individuals covered under such plan.

In addition, all ALEs are required to report offer of coverage information for any employees who were full-time for any month during the year.

Form 1094 and all associated Form 1095s must be reported to the IRS, and a copy of Form 1095 (or an alternative statement) must be provided to all full-time employees and any covered individuals.

Important Information to Address in Employee Communications

- Affordable Care Act (ACA) Requirements
 - Individuals are required to be enrolled in minimum essential coverage (an “MEC” plan) for all months during the year to avoid potential penalties under the individual mandate unless they meet a specified exemption. Individuals will need to indicate whether or not they were enrolled in MEC for all 12 months when filing their personal tax returns.
 - Individuals who are enrolled in individual coverage through a public Exchange or Marketplace may not qualify for a tax credit/subsidy if they are enrolled in an MEC plan or are eligible for affordable, minimum value employer-sponsored coverage. For individuals

who were provided with such a tax credit/subsidy, but were ineligible for any part of the year, any applicable reconciliation will be handled on the personal tax return.

o Form Descriptions

- For small employers (less than 50 FTEs) offering a fully-insured MEC plan:
 - Anyone actually enrolled in the employer's medical plan will receive a Form 1095-B from the insurance carrier indicating any months of coverage for the employee and any covered dependents.
- For small employers (less than 50 FTEs) offering a self-funded MEC plan:
 - Anyone actually enrolled in the employer's medical plan will receive a Form 1095-B from the employer (or third-party vendor hired by the employer to provide the forms) indicating any months of coverage for the employee and any covered dependents.
- For ALEs (50 or more FTEs) offering a fully-insured MEC plan:
 - All full-time employees, whether they enroll in the plan or not, will receive a Form 1095-C from the employer (or third-party vendor hired by the employer to provide the forms) indicating whether or not the employee was offered a plan that met both minimum value and affordability requirements.
 - In addition, anyone actually enrolled in the employer's medical plan will receive a Form 1095-B from the insurance carrier indicating any months of coverage for the employee and any covered dependents.
Note – employees who are both full-time and enrolled in the employer's medical plan will receive both Form 1095-B from the insurance company and Form 1095-C from the employer.
- For ALEs (50 or more FTEs) offering a self-funded MEC plan:
 - All full-time employees, as well as anyone actually enrolled in the employer's medical plan, will receive a Form 1095-C from the employer (or third-party vendor hired by the employer to provide the forms) indicating (a) whether or not the employee was offered a plan that met both minimum value and affordability requirements; and (b) any months of coverage for the employee and any covered dependents.

o **Using 2015 Information When Filing Personal Taxes**

Individuals will use Form 1095-B and/or C as documentation that they were enrolled in minimum essential coverage (MEC) to comply with the individual mandate and whether or not the individual was eligible for a tax subsidy if enrolled through a public Exchange.

- Information regarding coverage and subsidy eligibility is needed to complete an individual's personal tax return, but the Form 1095 does not need to be submitted with the personal tax return. Copies of 1095s will be provided to the IRS by the employer (or third-party vendor) or insurance carrier as applicable.
- Individuals should keep copies of 1095s on file to verify offer and coverage information in case an audit is conducted in the future.

Also note that due to the extension of the reporting deadlines for 2016, employees may not receive a Form 1095 prior to filing their personal tax returns. Since Form 1095 is not actually required for an individual to file their personal tax return, this shouldn't delay the filing of personal tax returns.

If Form 1095 is not available at the time the individual is preparing the personal tax return, the individual may request the information from the insurance carrier or employer. The IRS indicated in Notice 2016-4 that for the 2015 tax year, individuals who do not receive a Form 1095 prior to filing their tax returns may rely on other sources of information (e.g. from the employer or insurance carrier) for these purposes and will not be required to file an amended return if they subsequently receive a Form 1095 containing different information.

Summary

Employers may be able to avoid some of the confusion and proactively answer employee questions by providing some type of employee communication in regard to the Form 1095s that will be provided to individuals for the first time early in 2016. The information provided here is meant to provide some general information that may be adjusted to match the employer's situation.

More detailed information in regard to employer reporting requirements can be found in our employer reporting guide found [here](#).

Specific information about 2016 extended deadlines may be found [here](#).

Please be aware that this does not represent legal or tax advice and is only Frenkel's interpretation of the laws, regulations and statutes. It is highly recommended that you seek the advice of your legal and tax professional as to the applicability of this information to your particular situation.