

Reminder to Check Your Form 1094-C Before It's Filed with IRS

February 22, 2022

Applicable large employers have until February 28th (March 31st if filed electronically) to submit their Forms 1094-C and 1095-C to the IRS for compliance with the ACA. The Form 1094-C is used, in part, to report to the IRS whether the employer has offered health coverage to at least 95% of its full-time employees. In our experience, most employers intend to meet this 95% threshold in order to avoid the extremely large penalty that otherwise is imposed under the ACA. However, some employers are reporting they did NOT meet this 95% threshold on their Forms 1094-C, even though they did, usually as a result of an error made by a service provider completing the form. This results in the IRS sending a notice of a proposed assessment of the employer shared responsibility penalty under the ACA. If an employer does not timely respond to the notice, the IRS will send an invoice for the entire penalty, potentially millions of dollars. One way to avoid this issue is to ensure the Form 1094-C correctly states that coverage was offered to at least 95% of full-time employees for each month of the year.

In addition to avoiding negotiating over incorrect employer shared responsibility penalties with an IRS agent, another reason to review the Form 1094-C is to ensure its overall accuracy. As a federal tax form, penalties generally apply if incorrect information is filed (*e.g.*, similar to penalties that apply for filing incorrect Forms W-2). As we noted [earlier](#), proposed regulations eliminate the good-faith transition relief from penalties that apply for incorrect or incomplete information reported on the Forms 1094-C and 1095-C, as furnished to individuals or filed with the IRS, for the 2021 tax year and subsequent years.

Employers have good reasons for ensuring the accuracy and completeness of the Form 1094-C before it is submitted to the IRS and should consult with counsel as needed regarding any questions before filing.