

Publications

New Proposed Regulation for 1095B and 1095C Issued

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The IRS issued new proposed regulations (<https://public-inspection.federalregister.gov/2021-25202.pdf>) which will impact furnishing Forms 1095-B and 1095-C to covered individuals.

Deadline for distributing forms to employees and for filing forms with the IRS

The proposed regulation provides an automatic 30-day extension to the January 31 filing deadline to distribute (furnish) copies of IRS Form 1095-Cs and 1095-Bs to employees and insureds. As you may recall, the IRS has issued ad hoc extensions of this deadline for each year since 2015. This proposed regulation would make that extension permanent and automatic (no application required to claim the extension). However, this replaces both the current-30 day good cause extension and the authority to grant additional automatic extensions.

Note, consistent with prior extensions, the deadlines for filing these forms with the IRS were not extended. Paper filers (filing fewer than 250 Form 1095-Cs) must still file by February 28 (i.e., before the extended deadline for furnishing to employees) and electronic filers have until March 31. Employers can get an automatic 30-day extension of the filing deadline by filing IRS Form 8809, *Application for Extension of Time to File Information Returns*, before the original filing deadline.

Method to distribute forms to employees

The proposed regulation makes permanent the prior option to skip distribution of some Forms 1095B/C, if:

- The shared responsibility payment amount under Internal Revenue Code Section 5000A(b) for the applicable year is \$0.
- The individual is not classified as a full-time employee for any month during the applicable year (i.e., when the "all 12 months" column of Line 14 on Form 1095-C is Code 1G). Examples may include covered part-time employees, COBRA qualified beneficiaries and retirees who were not employed in the year, and enrolled outside directors.

- The reporting entity (insurer or employer):
 - Posts a clear and conspicuous notice prominently on its website:
 - Stating that individuals may receive a copy of their Form 1095-B or 1095-C upon request, and
 - Providing an e-mail address, physical address and telephone number of a contact to request a copy or ask questions.
 - Within 30 days of any request, provide a copy of the Form 1095-B or 1095-C to anyone who requests a copy.

It is important to note that this alternative delivery method does not apply to full-time employees. This means that most employers will still be required to print and mail paper copies of the Forms 1095-C (unless the employer has complied with all of the requirements to deliver the forms electronically). In addition, all of the Forms must still be filed with the IRS.