

December 28, 2015

## **Notice 2016-04: IRS Extends Due Dates for Furnishing 2015 Forms 1095-B and 1095-C**

In a Notice issued today, the IRS announced an automatic extension of the due dates for the 2015 information reporting requirements (both furnishing to individuals and filing with the IRS for insurers, self-insuring employers, and certain other providers of minimum essential coverage under section 6055 of the Internal Revenue Code (Code), and the information reporting requirements for applicable large employers (ALEs) under section 6056 of the Code. The extension of the information reporting requirements for calendar year 2015 have no effect on the application of other ACA provisions, such as the excise tax penalty provisions.

Notwithstanding the extensions provided in the notice, the IRS specifically encourages employers and other coverage providers to furnish statements and file the information returns as soon as they are ready.

In IRS Notice 2016-04 the IRS:

- **Extends the due date for furnishing the 2015 Form 1095-B and the 2015 Form 1095-C to applicable employees from February 1, 2016, to March 31, 2016 – a two month extension.**
- **Extends the due date for filing with the IRS the 2015 Form 1094-B and the 2015 Form 1094-C from February 29, 2016, to May 31, 2016, if filing in paper – a three month extension.**
- **Extends the due date for filing with the IRS 2015 Form 1094-B and the 2015 Form 1094-C from March 31, 2016, to June 30, 2016, if filing electronically – a three month extension.**
- Announces that in view of these new extensions, the provisions in the 2015 filing instructions regarding automatic and permissive extensions of time for filing information returns and permissive extensions of time for furnishing statements will not apply to further extend the new extended due dates.
- Confirms that employers or other coverage providers that do not comply with the extended due dates are subject to IRS penalties for failure to timely furnish and file.

- However, employers and other coverage providers that do not meet the new extended due dates are still encouraged to furnish and file, and the IRS will take such furnishing and filing into consideration when determining whether to abate penalties for reasonable cause.
- The IRS will also take into account whether an employer or other coverage provider made reasonable efforts to prepare for reporting the required information to the IRS and furnishing it to employees and covered individuals, such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the IRS, or testing its ability to transmit information to the IRS.
- In addition, the IRS will take into account the extent to which the employer or other coverage provider is taking steps to ensure that it is able to comply with the reporting requirements for 2016.

The extension of due dates provided by the Notice apply only to information returns and statements for calendar year 2015 filed and furnished in 2016. The extension is automatic and does not require the submission of any request or other documentation to the IRS.

In fact, because the extensions apply automatically to all filers and are more generous than extensions of time to file or furnish 2015 returns and information statements in the 2015 filing instructions, any extensions that have already been submitted to the IRS will not be formally granted.

Finally, Notice 2016-04 also provides guidance to individuals who might not receive a Form 1095-B or Form 1095-C by the time they file their 2015 tax returns. More to come on this.

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Please contact me if you have any questions.

**Richard A. Szczebak, Esq.**  
617-399-0441 | [rszczebak@parkerbrown.com](mailto:rszczebak@parkerbrown.com)

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