



Issued date: 12/03/19

The Internal Revenue Service (IRS) recently released draft versions of Forms 1094/1095-C and 1094/1095-B information returns for calendar year 2019, and draft instructions for those forms. The 2019 draft forms and instructions have very few changes from the prior year's versions.

Background

Form 1094-C Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns and Form 1095-C Employer-Provided Health Insurance Offer and Coverage are used by Applicable Large Employers (ALEs) to report offers of coverage to full-time employees to satisfy the Affordable Care Act's employer mandate, and by self-insured ALEs to report individuals enrolled in minimum essential coverage (MEC).

Form 1094-B Transmittal of Health Coverage Information Returns and Form 1095-B Health Coverage are primarily used by carriers to report individuals enrolled in MEC. An employer generally would only use these forms if it sponsors a self-insured plan and is either (1) not an ALE, or (2) is an ALE and chooses to use Form 1095-B for certain individuals enrolled in the plan who are not required to receive a Form 1095-C (such as non-employees).

2019 Draft 1094/1095 Forms and Instructions

The 2019 draft versions of the 1094/1095 forms and instructions were posted by the IRS in November 2019, which is late compared to past years. Typically, draft versions have been issued in August and finalized in September. This delay generated speculation that there might be significant modifications to the forms and reporting requirements, perhaps related to the fact that beginning January 1, 2019, the penalty for an individual not maintaining MEC was reduced to zero. However, at least based on the 2019 draft forms and instructions, this is not the case. There were relatively few changes made from the prior year, as detailed below.

- **Draft 2019 Form 1094-C:** No changes.
- **Draft 2019 Form 1095-C:** No changes to the form itself.

Identifying the "Plan Start Month" in Part II remains optional for 2019, although it may become mandatory for 2020.

The Instructions for Recipient on the back of the form had a few changes to reflect the elimination of the individual mandate penalty, and to underscore that information reported on the form is relevant to determining if an individual qualifies for subsidies through the Marketplace/Exchange.

Changes include:

- deleting a statement that the information is reported on the form “to assist you in completing your income tax return”
- adding a statement that “[i]f you or your family members are eligible for certain types of minimum essential coverage, you may not be eligible for the premium tax credit”

Draft 2019 Instructions for Forms 1094-C and 1095-C:

In addition to routine updates to the furnishing and filing deadlines, and the dates used in examples, the following changes were made:

- deleting a reference that individuals reported to have MEC under a self-insured plan “are not liable for the individual shared responsibility payment for the months that they are covered under the plan”
- adding a statement that “[e]ligibility for certain types of minimum essential coverage can affect a taxpayer’s eligibility for the premium tax credit”
- updating the calendar year penalty caps for the failure of an ALE to (1) file correct information returns, or (2) provide correct payee statements, to \$3,339,000 each (from \$3,275,500 in 2018)
- updating the applicable percentage for affordability safe harbors and the Qualifying Offer Method to 9.86% for plan years beginning in 2019 (from 9.56% in 2018)

Changes to the draft 2019 Forms 1094-B, 1095-B, and applicable instructions are similar to the changes described above.

Employer Action

Even though the draft forms and instructions did not significantly change from their prior versions, it is always possible that the finalized versions may contain more substantive changes. We will need to wait and see.

In the interim, employers should:

- Await the final 2019 Forms and Instructions (the draft versions of the forms cannot be filed with the IRS).
- Prepare for 2019 Form 1094-C and 1095-C reporting.
 - An ALE must furnish a 2019 Form 1095-C to each of its full-time employees by **January 31, 2020**. At this point no extension to this deadline has been announced.
 - For calendar year 2019, Forms 1094-C and 1095-C are required to be filed with the IRS by **February 28, 2020**, or **March 31, 2020**, if filing electronically. An automatic 30-day extension of time to file can be obtained by completing Form 8809 and filing it with the IRS on or before the due date for the Forms 1094-C and 1095-C.
- For an employer who sponsors a self-insured plan but is either (1) not an ALE, or (2) choosing to use Form 1095-B to report enrolled individuals who are not required to receive a Form 1095-C (such as non-employees), prepare for 2019 Forms 1094-B and 1095-B reporting subject to the same time frames as Forms 1094-C and 1095-C.
- Expect ACA reporting to continue (CY 2020 and thereafter). Although the individual mandate has been zeroed out, the employer shared responsibility provisions remain in effect.

Draft Forms and Instructions

- Draft 2019 Form 1094-C:
<https://www.irs.gov/pub/irs-dft/f1094c--dft.pdf>
- Draft 2019 Form 1095-C:
<https://www.irs.gov/pub/irs-dft/f1095c--dft.pdf>
- Draft 2019 Instructions for Forms 1094-C and 1095-C:
<https://www.irs.gov/pub/irs-dft/i109495c--dft.pdf>
- Draft 2019 Form 1094-B:
<https://www.irs.gov/pub/irs-dft/f1094b--dft.pdf>
- Draft 2019 Form 1095-B:
<https://www.irs.gov/pub/irs-dft/f1095b--dft.pdf>
- Draft 2019 Instructions for Forms 1094-B and 1095-B:
<https://www.irs.gov/pub/irs-dft/i109495b--dft.pdf>