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IRS Releases Draft Instructions for 2017 Forms 1094 and 1095

The IRS has released draft instructions for Forms 1094/1095-C (C Forms) for the 2017 tax year. The draft forms were released earlier this summer. As a reminder, the C Forms are filed by applicable large employers (ALEs – employers with 50 plus full-time or full-time equivalent employees) to comply with the ACA's reporting requirements, providing information that the IRS needs to administer employer shared responsibility (pay or play) penalty under Code § 4980H, as well as receipt of premium tax credits. (In addition to being filed with the IRS, Form 1095-C is furnished to individuals.) ALEs with self-insured health plans also report coverage information on Form 1095-C.

The draft instructions for the C Forms are largely unchanged, although references to transition relief available to non-calendar-year plans for certain months in 2016 have been eliminated now that this relief has expired. Citing IRS Notice 2017-9, the draft instructions observe that a safe harbor is available for de minimis errors in reporting dollar amounts on line 15 of Form 1095-C (required employee contributions), excusing the ALE from having to file a corrected return for minor errors unless the individual recipient elects for the safe harbor not to apply.

For purposes of determining affordability of employer-sponsored coverage, the draft instructions note inflation adjustments to the 9.5% threshold increased the percentage to 9.66% for plan years beginning in 2016 and 9.69% for plan years beginning in 2017 (this percentage will drop to 9.56% for plan years beginning in 2018). In addition, the draft instructions clarify that there is no specific code to enter on line 16 to indicate that an employee was offered MEC and declined the coverage. And, there is confirmation of the extension of the existing interim relief for multiemployer plans (i.e., union plans) for another year, meaning ALEs qualifying for this relief will not need to obtain eligibility and other information from multiemployer plans for 2017 filings (the instructions state that this approach may change for 2018 and later years). The deadlines to furnish statements to individuals and to file with the IRS have been updated from 2017 to 2018.

Those responsible for preparing and filing these forms will undoubtedly welcome the absence of major changes for the 2017 tax year. With deadlines for furnishing forms to individuals and for filing with the IRS arising quickly after the end of the year and no indication so far that the deadlines will be extended, it is essential to have a strategy for collecting and organizing the required information.

<https://www.irs.gov/pub/irs-dft/i109495c--dft.pdf> (Draft C Form Instructions)

Please visit <http://www.moreton.com/category/compliance-updates/> for more information and to view other client alerts. This Client Alert was written by Carolyn Cox, Moreton & Company's in-house corporate counsel who provides our clients with compliance services. For additional questions, please contact Carolyn at 801-715-7110 or ccox@moreton.com.

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