

June 20, 2017

## IRS Begins Large Employer ACA Reporting Penalty Process

As the American Health Care Act (AHCA) has not been signed into law yet, the Affordable Care Act (ACA) is still in effect and the IRS is currently issuing notices to large employers to disclose whether they complied with the ACA reporting duties or not.

Large employer ACA reporting was required for 2015 and 2016 (even if transition relief was applied for 2015). Penalties can be up to \$500 per each 2015 Form 1095-C statement (\$250 for not providing the form to the employee and \$250 for not filing with the IRS) and up to \$3 million total for an annual penalty liability.

IRS notices referred to as "Request for Employer Reporting of Offers of Health Insurance Coverage (Forms 1094-C and 1095-C)" (aka Letter 5699) are being distributed to employers that failed to provide Form 1095-C and file copies with Form 1094-C regarding reporting for 2015 or 2016. Employers that receive this will have only 30 days to complete and return the form, which contains the following options:

- Employer already complied with reporting duties;
- Employer did not comply but encloses required forms with return letter;
- Employer will comply with reporting duties within ninety days (or later, if further explained in the form);
- Employer was not an Applicable Large Employer for the year in question; or
- Other (requiring a statement explaining why required returns were not filed, and any actions planned to be taken).

The letter also states, "If you are required to file information returns under IRC Section 6056, failure to comply may result in the assessment of a penalty under IRC Section 6721 for a failure to file information returns."

The IRS offers good faith relief from filing penalties for timely filed forms if they are incomplete or incorrect for 2015 or 2016. This relief is only available upon showing "reasonable cause," which is narrowly interpreted (ex., due to fire, flood, or major illness).

**If you have any questions about this issue or if you receive Letter 5699, please contact your local member of the AssuredPartners benefit team to assist and ensure you respond as required within the 30-day period.**

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Source: Crawford Advisors | E for ERISA | Waiting for the Other Shoe to Drop: IRS Begins ACA Reporting Penalty Process

