

## EMPLOYEE BENEFITS

# President Biden Signs ACA Reporting Changes into Law

December 2024: Updated March 2025

Congress recently passed, and the President has signed, two laws impacting ACA reporting and employer shared responsibility penalties. The summary below analyzes those rules.

## Background

The Internal Revenue Code (the “Code”) imposes requirements on employers and insurance carriers to report medical coverage information to both the IRS and employees/covered individuals. Section 6055 of the Code requires (1) the insurance carrier of fully insured coverage to file Forms 1094-B/1095-B with the IRS and furnish Forms 1095-B to covered individuals and (2) plan sponsors of self-insured coverage to file Forms 1094-B/1095-B with the IRS and furnish Forms 1095-B to covered individuals. In addition, under Section 6056 of the Code, ALEs (defined as an employer that averaged 50 or more full-time and full-time equivalent employees in the previous year) are responsible for filing Forms 1094-C/1095-C with the IRS and furnishing Forms 1095-C to employees/covered individuals.<sup>1</sup> Previously, the IRS required ALEs to furnish paper copies of these forms to every full-time employee. Employers and insurance carriers were also required to make three attempts to secure an employee’s dependent’s social security number before being able to substitute the dependent’s date of birth for the dependent’s social security number or Tax Identification Number (TIN) on the applicable 1094/1095 form.

Under Section 4980H of the Code, ALEs are subject to an employer shared responsibility penalty if they fail to offer sufficient coverage to their full-time employees. When the IRS believes an ALE owes such a penalty, it sends a letter (i.e., Letter 226-J) to the ALE informing it of the IRS’ intent to assess the penalty. The law previously provided that an ALE must respond to the 226-J letter within 30 days. Furthermore, the IRS could pursue employer shared responsibility penalties against an ALE into perpetuity, with no statute of limitations as to how long the IRS could pursue those penalties from an ALE.



<sup>1</sup> Forms 1094-C/1095-C may be used to satisfy the ALE’s obligations under Section 6055 as well.

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# Paperwork Burden Reduction Act

President Biden signed the Paperwork Burden Reduction Act into law on December 23, 2024, formalizing IRS guidance aimed at alleviating some of the burdens associated with Forms 1095-B and 1095-C.

## Simplification of the Furnishing Requirement to Full-Time Employees

Under prior IRS guidance, employers and insurance providers could comply with their obligations under Sections 6055 and 6056 by making the applicable form available to covered individuals and full-time employees through their website. However, an ALE that offers self-insured coverage could use this alternative manner of furnishing Forms 1095-B or 1095-C only for non-full-time employees and non-employees who are enrolled in the self-insured health coverage. The alternative method could not, however, be used for full-time employees who were entitled to a Form 1095-C.

Effective for reporting years beginning in 2024 and beyond, the regulatory guidance authorizing an alternative method to paper delivery has been codified and expanded. Sections 6055 and 6056 now authorize employers and insurance providers to distribute Forms 1095-B and 1095-C to covered individuals and full-time employees by posting a “clear, conspicuous, and accessible notice” that notifies full-time employees of their ability to request their Form 1095-C in paper form from the employer. This would absolve an employer from having to furnish a paper copy of Form 1095-C to every full-time employee and limit the delivery of paper copies to only those who request it.

**UPDATE MARCH 2025:** New IRS guidance in [Notice 2025-15](#) confirms that employers/insurance providers can satisfy the “clear, conspicuous, and accessible notice” requirement by placing a statement on their public website in an area that’s accessible to all full-time employees (and covered individuals) notifying them of their ability to receive a copy of Form 1095-B or Form 1095-C upon request. The notice needs to include an email address, a physical mailing address where full-time employees/covered individuals can send requests for a copy of their Form 1095-B or Form 1095-C, and a phone number for full-time employees/covered individuals to call with questions.

To satisfy the rules, the notice should be written in simple, everyday language and use a font size that’s large enough—possibly with visual cues or graphics—clearly stating that these are tax statements related to health coverage. For instance, the entity’s website could feature a statement on the main page, or a link labeled “Tax Information” that leads to another page with a bold, all-caps heading like “IMPORTANT HEALTH COVERAGE TAX DOCUMENTS.” This page would explain how full-time employees/covered individuals can request a copy of their Form 1095-B or Form 1095-C, and, if the entity is an ALE with a self-insured health plan reporting under specific rules, the page would also explain how non-full-time employees or non-employees enrolled in the plan can request their Form 1095-C, while listing the entity’s email, mailing address, and phone number. Employer/insurance providers must post the “clear, conspicuous, and accessible notice” on or before the annual furnishing deadline for Forms 1095-B and 1095-C (e.g., March 3, 2025, for the 2024 reporting year) and keep the notice posted until October 15 of the applicable furnishing year (i.e., the year following the applicable reporting year). This new guidance mirrors the alternative method of furnishing statements to non-full-time employees in the [2024 Instructions for Forms 1094-C and 1095-C](#).

If an individual requests a paper copy of Form 1095-B or 1095-C, the employer/insurance provider is required to provide the paper copy to the requester by January 31 of the year following the reporting year or 30 days following the request, whichever is later

## State Reporting

Employers in jurisdictions that have their own individual mandate and reporting requirements that allow plan sponsors to use Forms 1095 and 1094 to meet these requirements (e.g., California, New Jersey, Rhode Island, and Washington, DC) should consult with legal counsel to determine whether posting a clear, conspicuous, and accessible notice is sufficient to comply with state law requirements.



## Employer Reporting Improvement Act

President Biden also signed the Employer Reporting Improvement Act into law on December 23, 2024, formalizing IRS guidance to alleviate some of the challenges employers/ insurance providers face when reporting on Forms 1095-B and 1095-C (“ACA Forms”). This Act also makes changes with respect to the assessment of Section 4980H employer shared responsibility penalties.

### Consent for Electronic Delivery is Codified, and DOB can be a Substitute for a Dependent’s Taxpayer Identification Number

Previously, the general rule was that these ACA Forms must be delivered to requesters in paper form. The exception to this rule was that if an individual consents to electronic delivery of their ACA Form, then the employer/insurance provider could deliver the ACA Form electronically to those consenting individuals. These rules were only contained in the ACA Forms instructions, and this new rule codifies the electronic delivery exception in the Internal Revenue Code under the Employer Reporting Improvement Act, effective January 1, 2025.

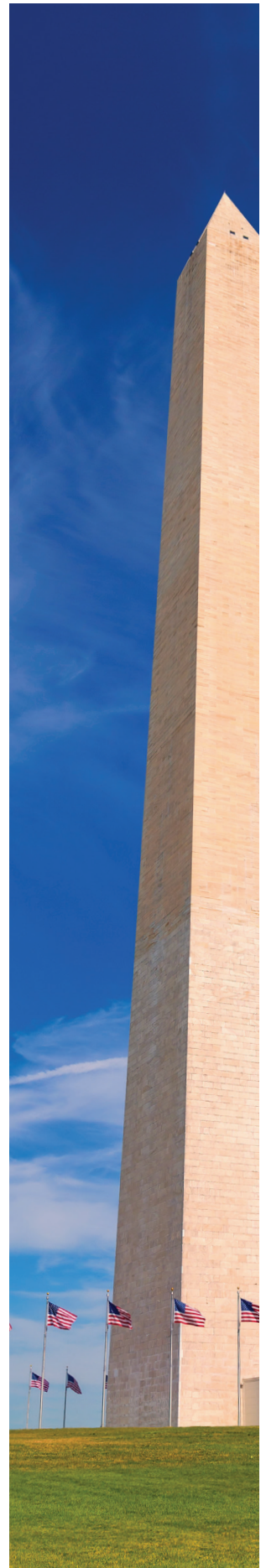
Second, the Employer Reporting Improvement Act also permits employers/insurance providers to use an individual’s date of birth instead of their Taxpayer Identification Number (TIN) on Forms 1095-B and 1095-C when the TIN is not available.

### Letter 226-J Extension of Response Time and Six-Year Statute of Limitations

Additionally, under the Employer Reporting Improvement Act (effective January 1, 2025), ALEs have an expanded timeframe to respond to IRS letters of potential Employer Mandate violations (i.e., Letter 226-J). ALEs will now have a minimum of 90 days from the date of the IRS’ initial letter to respond, compared to the previous 30 days from the date of the initial IRS letter. Further, the IRS now has six years to assess Section 4980H employer shared responsibility penalties against an ALE. The six-year period will begin with the due date for filing the Form 1094-C or the date an ALE filed the form, whichever is later. The extended 90-day period allows for a more comprehensive review of potential penalties and the opportunity to avoid or reduce assessments, and the six-year assessment period provides ALEs with a clearer understanding of potential future IRS enforcement actions.

## Conclusion

This legislation should be a welcome relief to employers. ALEs in particular will have a reduced administrative burden (e.g., the ability to furnish 1095-C forms without mailing paper copies and to report DOBs instead of TINs) and the six-year statute-of-limitations applicable to the assessment of employer shared responsibility penalties will provide greater certainty. Applicable Large Employers should consult with legal counsel on how they may meet their obligations as it relates to notifying full-time employees of their ability to request Form 1095-C in a “clear, conspicuous, and accessible notice” and whether they want to delay doing so until the government releases future guidance on this topic.





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