

February 1, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Charles Rettig
Commissioner
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station
Washington, D.C. 20044

Attn: CC:PA:LPD: PR (Notice 2020-76) Room 5203; *Transition Relief Related to Health Coverage Reporting Required by Sections 6055 and 6056 for 2020*

Submitted via www.regulations.gov

Dear Secretary Yellen and Commissioner Rettig:

The ERISA Industry Committee (ERIC) appreciates the opportunity to provide policy recommendations for reforming the information-reporting requirements under sections 6055 and 6056 of the Internal Revenue Code, as requested in Notice 2020-76, *Transition Relief Related to Health Coverage Reporting Required by Sections 6055 and 6056 for 2020*. **We are eager to work with you to implement policies to better enable large employers to continue offering employment-based health coverage and request an immediate delay in meeting reporting requirements for Form 1095-C.**

ERIC is a national advocacy organization that exclusively represents large employers that provide health, retirement, paid leave, and other benefits to their nationwide workforces, their families, and retirees. With member companies that are leaders in every sector of the economy and with operations in every state, ERIC advocates on the federal, state, and local levels for policies that promote flexibility and uniformity in the administration of nationwide employee benefit plans.

Americans engage with an ERIC member company when they drive a car or fill it with gas, use a cell phone or a computer, watch TV, dine out or at home, enjoy a beverage, fly on an airplane, visit a bank or hotel, benefit from our national defense, receive or send a package, go shopping, or use cosmetics.

ERIC member companies work diligently to provide robust benefits to their employees and tailor the benefits to meet their unique workforce's needs. By offering comprehensive health coverage, retirement savings plans, and paid leave and wellness programs, our members ensure their workforce is healthy and prepared for a secure retirement. While the Affordable Care Act (ACA) compliance requirements have been complex and administratively burdensome on large employers, the COVID-19 pandemic made compliance virtually impossible for employers who are managing closures, have decreased or increased workforce demand, implemented work from home policies, initiated furloughs, reduced hours, made temporary layoffs, and more. Employers and their employees face an unprecedented amount of uncertainty due to the COVID-19 pandemic and will continue to do so for months to come.

ERIC strongly urges the new administration to allow a permanent delay for large employers in reporting health data required by sections 6055 and 6056 of the Internal Revenue Code and from sending Form 1095-C to its employees. Calculations to produce Form 1095-C require consolidating data from multiple systems into a single formatted file before the information can be used to perform affordability, extend an offer of coverage, and code calculations. Employers find it difficult in the current environment to meet the January 31 mailing deadline to determine full-time equivalency for employees. In addition, the current mailing delays and administrative printing costs should also be considered as inhibitive factors in meeting the January 31 deadline, as the country will take months to recover from the COVID-19 pandemic.

We believe the Treasury Department (Treasury) and Internal Revenue Service (IRS) can help America's large employers and their workers by issuing an immediate delay and considering other important policies such as:

- Revising the list of data requirements under sections 6055 and 6056
- Decoupling information reporting for sections 6055 and 6056 from Form 1095-C
- Enabling large employers to report in advance to the IRS relevant data items about the type of coverage offered to their workforce of full-time employees before open enrollment season in the Exchanges
- Requiring IRS review of large employer filed data before the IRS issues a 226-J penalty notification letter
- Providing large employers with 90 days, rather than 30 days, to appeal a 226-J tax penalty letter for any tax compliance year
- Working directly with the Department of Health and Human Services (HHS) and state-based Exchanges to verify employer information during open enrollment to determine individual premium tax credit eligibility, as employers are not privy to household income for their employees

Employers want the information-reporting requirements and the Exchange eligibility verification process to run efficiently and effectively but need relief, especially in the current environment.

ERIC appreciates your consideration and looks forward to working with you to obtain appropriate relief and to provide any additional information you may need.

Sincerely,



James P. Gelfand
Senior Vice President, Health Policy