November 23, 2016

IRS Extends ACA Information Reporting Due Date for Furnishing to Individuals for 2016 Calendar Year

On November 18, 2016, the Internal Revenue Service ("IRS") released Notice 2016-70, which extends the due date for the 2016 Affordable Care Act ("ACA") information reporting requirements (for furnishing to individuals) for insurers, self-insuring employers, and certain other providers of minimum essential coverage under Section 6055 of the Internal Revenue Code of 1986, as amended (the "Code"), and the information reporting requirements for applicable large employers ("ALEs") under Section 6056 of the Code.

The transition relief provided in Notice 2016-70 with regard to the extension is as follows:

- The due date for furnishing the 2016 Form 1095-B, *Health Coverage*, and the 2016 Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, **to individuals and employees** is extended from January 31, 2017, to March 2, 2017.

In view of the due date extension listed above, Notice 2016-70 clarifies that the provisions regarding permissive extensions of time for furnishing statements will **not apply to the extended due date.**

Notably, the due date for filing **with the IRS** the 2016 Form 1094-B, *Transmittal of Health Coverage Information Returns*, the 2016 Form 1095-B, the 2016 Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and the 2016 Form 1095-C has ***not*** been extended and remains February 28, 2017, if not filing electronically, or March 31, 2017, if filing electronically. The IRS has determined that there is no similar need for additional time for employers, insurers, and other providers of minimum essential coverage for filing information returns.

Employers or other health coverage providers that do not comply with the due dates are subject to penalties under Section 6722 or Section 6721 of the Code for failure to timely furnish and file. However, employers and other coverage providers that do not meet the due dates are still encouraged to furnish and file, and the IRS will take such furnishing and filing into consideration when determining whether to abate penalties for reasonable cause.

The IRS will also take into account whether an employer or other health coverage provider made reasonable efforts to prepare for reporting the required information to the IRS and furnishing it to employees and covered individuals, such as gathering and transmitting the necessary data to an agent to prepare the data for submission to the IRS, or testing its ability to transmit information to the IRS. In addition, the IRS will take into account the extent to which the employer or other health coverage provider is taking steps to ensure that it is able to comply with the reporting requirements for 2017.