

Double whammy in store for Affordable Care Act free riders

The IRS has begun enforcing the Affordable Care Act's free-rider penalties against approximately 50,000 applicable large employers. It suspects these companies didn't offer at least 95% of their full-time employees and their dependents affordable, minimum value group health benefits during 2017. The IRS began mailing Letter 226J, which is the free-rider penalty notice, in batches of 1,000 beginning in July.

Second punch: Unlike most tax penalties, the IRS has concluded that the free-rider penalties can't be waived. (INFO 2019-0008)

The answer is in the codes

The key to unlocking Forms 1095-C and 1094-C and your potential for a free-rider penalty is knowing the codes. Certain code combinations or missing codes or checks in boxes will likely trigger a Letter 226J from the IRS, even if you or your third-party service provider did everything else correctly.

On Form 1094-C, the transmittal for Forms 1095-C, ensure that the appropriate box is checked—coverage offered for all 12 months or only certain months—on Line 23 in Part III. If you don't check any box on Line 23, the IRS will automatically send you a Letter 226J because it looks like you didn't offer coverage at all.

If you don't check the Yes box on Line 23, but enter one of the affordability safe harbor codes—2F, 2G or 2H—on Form 1095-C for any month during which the Yes box isn't checked, the IRS will invalidate those months and send you a Letter 226-J.

There are more code combinations for Form 1095-C and, therefore, more opportunities for errors. Be sure to code Lines 14 and 16 correctly.

- *Line 14 golden codes:* 1C, 1D and 1E. Any of these codes show you offered coverage to employees, their spouses and/or their dependents and may be paired with an affordability safe harbor on Line 16.
- *Most common coding combo mistake:* entering Code 1H on Line 14, including a monetary value on Line 15 and entering a code other than Code 2A on Line 16.
- *Beware this impossible combo:* entering Code 1H on Line 14 and then Code 2F (an affordability safe harbor) on Line 16.
- *Other common coding combo mistakes:* not completing Line 15, if Codes 1B, 1C, 1D, 1E, 1J or 1K is entered on Line 14, or completing Line 15 if Codes 1A, 1F, 1G or 1H was entered on Line 14.

Be proactive

Take a proactive stance now and ensure that your 2019 Forms 1094-C/1095-C are coded correctly. You can check whether your coding is correct by running samples of Form 1095-C on plain paper. You can use last year's forms for this purpose since the key coding combinations don't vary year to year.

More workers now eligible for health insurance

The number of workers eligible to receive health coverage through their jobs rose from 2014 through 2018, according to a new study by the Employee Benefit Research Institute.

The trend may be traced to the effects of the Affordable Care Act and a flourishing economy.

“Between 2014 and 2018, the percentage of workers eligible for health coverage increased from 75.4% to 78%,” said Paul Fronstin, EBRI’s director of health research and education. He said the increase was probably due to two factors:

- More employees working full-time now, compared to 2014.
- More employees working for larger organizations.

The Affordable Care Act requires employers with 50 or more employees to either offer health insurance coverage or pay a penalty. Employers with fewer than 50 employees are exempt from this provision, although the ACA includes incentives for small businesses to offer coverage.

As the economy has boomed, large employers, in particular, added more full-time workers, meaning more workers had access to employer-provided health insurance.

Congressional Republicans and the Trump administration have repeatedly tried unsuccessfully to repeal the ACA’s employer mandate.