



STOKES WAGNER

ATTORNEYS AT LAW

ATLANTA • ITHACA • LOS ANGELES • PITTSBURGH • SAN DIEGO • SAN FRANCISCO

Reasonable Cause Relief from ACA Reporting Penalties

The Affordable Care Act requires covered employers to report that they offered minimum essential coverage to their employees by filing IRS Forms 1094-C and 1095-C. Until recently, the IRS offered “good-faith transition relief,” which allowed businesses to avoid penalties related to the submission of incorrect or incomplete information in Form 1094-C and 1095-C filings, including missing or incorrect Taxpayer Identification Numbers (TINs), dates of birth, and other vital information. Under that policy, a business that submitted forms containing any incorrect or incomplete information could avoid penalties simply by demonstrating to the IRS that it had made a “good-faith” effort to comply with ACA regulations when furnishing the forms to individuals and filing with the IRS.

The 2020 ACA reporting season was the last season in which the IRS offered good-faith relief. In its absence, errors carry a more significant risk of resulting in penalties for businesses. The basis for IRS penalties is the same in the absence of good-faith relief, but there is now an increased burden on employers to document their attempts to prevent and correct filing errors in order to avoid the penalties. However, despite the unavailability of the broad protections provided by good faith relief, not every type of filing error will result in automatic penalties.

Although the IRS will no longer offer “good faith” relief for errors involving missing TINs or TIN/name mismatches, it will provide “reasonable cause” relief. To benefit from this policy, an employer must show that the mismatch is not due to the employer’s own mistake or neglect. The IRS may waive penalties entirely where the error is due to factors beyond the employer’s control, such as an employee providing false or incorrect information. Because of this, it is very important that employers take affirmative steps to ensure accuracy and correct mistakes. In the event of an error, employers should first check their employee records to ensure that the relevant employment documents match (i.e., mismatches are not the result of clerical errors), and then contact the employee(s) to make the required “solicitations” for the correct information. If the IRS sends a penalty notice, it will be important for employers to show that they took diligent steps to correct any issues, and that it documented those steps to establish that any error was not due to anything within the employer’s control.

Note that, although similar, this process is unrelated to the SSA’s mismatch notices, which this article does not address. Employers who encounter mismatches or receive error notices from either the SSA or the IRS should consult with counsel for specific guidance on how to remediate the errors and avoid penalties.

[Questions? Contact Stokes Wagner.](#)

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