

# COMPLIANCE ALERT

## California Franchise Tax Board Reporting of Offers of Group Health Coverage

November 2, 2020 (updated on January 22, 2021)

### QUICK FACTS

- California implemented an individual health coverage mandate penalty effective for taxable years beginning on or after January 1, 2020.
- The California Franchise Tax Board (FTB) requires carriers and certain employers to file copies of the federal ACA information returns that carriers, applicable large employers (ALE) and self-funded plan sponsors file annually with IRS.
- Proof of MEC is due to plan participants by January 31, 2021 using the 1095-C or 1095-B.
- FTB filings are due by March 31 of year following year for which coverage is being reported.
- Employers who fail to timely file with the FTB must pay a penalty of \$50 per individual included on a return.

### BACKGROUND

The ACA generally requires individuals to maintain health insurance coverage or pay an individual mandate penalty. In 2018, however, Congress passed tax legislation that reduced the ACA individual mandate penalty to \$0 effective January 1, 2019. That action prompted several states, including California, to adopt their own individual mandate penalty on state residents who do not maintain health coverage. Thus, for taxable years beginning on or after January 1, 2020, California requires residents and their dependents to whom no exemption applies to obtain and maintain qualified health coverage or pay a state penalty.

### GENERAL STATE FILING REQUIREMENTS

California has authorized the California Franchise Tax Board (FTB) to enforce and collect state individual health coverage mandate penalties. The FTB requires insurance carriers and certain employer plan sponsors to report offers of health coverage so it can determine which residents owe a penalty. The FTB has recently released [draft instructions](#) to explain the new mandatory reporting requirements, and observers expect the FTB to finalize the draft instructions with few, if any, changes.

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## What to File

Draft FTB Publication 3895C instructs employers to provide the FTB with copies of the IRS Forms 1094-C (Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns) and 1095-C (Employer-Provided Health Insurance Offer and Coverage) that applicable large employers (ALE) and self-funded plan sponsors must file with the IRS under ACA rules. There are no separate California health coverage reporting forms.

The draft guidance instructs employers who must file corrected federal Forms 1094-C not to file corrected forms with the FTB. However, the FTB will require employers who must file corrected federal Forms 1095-C to also file copies of the corrected forms with the FTB as soon as possible after discovering an error.

The FTB guidance also informs employers that if they already provide a federal individual statement (Form 1095-C) to full-time employees by January 31 following the year for which they are reporting, they do not need to provide a separate information statement for California reporting purposes.

## Who Must File

The FTB notes that employers that offer group health coverage through an insured plan or multiemployer plan generally will not need to file with the FTB. In those cases, the insurance carrier or multiemployer plan sponsor typically will file the appropriate forms with the FTB. Employers with insured group health plans should check with their carriers to be sure they are aware of, and will comply with, the new California reporting requirements. If a carrier plans not to send the appropriate forms to the FTB, the affected employer should be sure to file.

Self-insured group health plan sponsors already complete Parts I, II and III of Form 1095-C for federal ACA filing, and they should submit copies of the same forms to the FTB. Employers that sponsor self-insured group health plans must report information about each individual enrolled in that coverage. This information should appear in Part III of Form 1095-C, so California employers should have no separate recordkeeping burdens to comply with the California law. The current draft instructions also state that self-funded plan sponsors who offer group health coverage to an individual who declines the coverage do not need to submit Form 1095-C to the FTB.

## When to File

The deadline to distribute proof of health coverage in 2020 to California plan participants is January 31, 2021. The deadline for filing the required forms with the FTB is March 31 following the year for which coverage is being reported. For 2020 forms are due by March 31, 2021, although employers and carriers can submit forms prior to the deadline.

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## How to File

Employers who wish to file paper forms should do so by mailing them (postmarked prior to the deadline) to:

*Health Care Mandate  
Franchise Tax Board  
P.O. Box 2288  
Rancho Cordova, California 95741-2288*

Employers who prefer to file electronically can do so through the [FTB reporting website](#). Keep in mind that employers who must furnish more than 250 ACA information returns to full-time employees must electronically file forms with the FTB unless they apply for a hardship waiver. The FTB strongly encourages all employers to file electronically even if filing fewer than 250 forms.

## Potential Penalties

The FTB will assess against employers who fail to properly file coverage reports a penalty of \$50 per individual included on a required return. For example, an employer who fails to report for an employee and two dependents will face a \$150 penalty.

## CONCLUSION

2021 will be the first year in which employers must file forms with the FTB to document offers of group health coverage to their employees and dependents. The new filing process should be fairly straightforward since the FTB requires employers to file only copies of the forms they already file with the IRS. Employers who sponsor fully insured group health plans should coordinate FTB filings with their carriers. Employers who sponsor self-funded group health plans should visit the FTB reporting website to familiarize themselves with the required reporting procedures.

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