

NJ Employers and Out-of-State Employers with NJ Residents Prepare: State Updates Website on Employer Reporting for New Jersey Health Insurance Mandate

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As employers are wrapping up their reporting under the Affordable Care Act (“ACA”) for the 2018 tax year (filings of Forms 1094-B/C and 1095-C/B with the IRS are due by April 1, 2019, if filing electronically), they should start preparing for new reporting obligations for the 2019 tax year.

After a string of failed efforts to repeal the ACA, Congress, through the Tax Cuts and Jobs Act of 2017 (“TCJA”), reduced the federal individual shared responsibility payment assessed (with limited exceptions) against individuals who failed to purchase health insurance to \$0 beginning January 1, 2019. In response, to ensure the stability and provide more affordable rates for health coverage, States, such as New Jersey, have stepped in and adopted their own individual health insurance mandates. New Jersey’s individual health insurance mandate requires employers to verify health coverage information provided by individuals. To assist with employer reporting, New Jersey has launched an [official website](#) (lasted updated on March 19, 2019) with guidance on the filing requirements.

The New Jersey Health Insurance Market Preservation Act (“NJHIMPA”)

Beginning January 1, 2019, New Jersey requires its residents to maintain health insurance. The NJHIMPA requires New Jersey residents to have minimum essential health coverage throughout 2019 (and beyond), with certain qualifying exemptions. Failure to have health coverage or qualify for an exemption will result in a Shared Responsibility Payment (“SRP”) when taxpayers file their 2019 New Jersey Income Tax return. The amount of the SRP is generally based on income and family size and is capped at the statewide average premium for Bronze Health Plans in New Jersey. Individuals not required to file a 2019 New Jersey Income Tax return are exempt from this mandate. Most basic health coverage satisfies the requirement, including health insurance plans through an employer. However, certain employer plans that provide only very limited benefits, such as vision or dental, do not.

Use of Forms 1094 and 1095 Are Expected to Satisfy Employer Reporting in New Jersey

While the IRS has stated that it will continue to study whether and how the reporting requirements should change, if at all, for future years, in light of the effective repeal of the individual mandate by the TCJA, starting with 2019 tax year, the New Jersey Legislature requires third-party reporting to verify health coverage information provided by individual taxpayers.

The State expects employers that filed Form 1094-C/Form 1095-C federally in 2018, will use those forms for purposes of reporting in New Jersey. Filers of Form 1094-B/Form 1095-B should use those forms for New Jersey filings. Forms 1095-B have been used to report whether individuals have minimum essential coverage and, therefore, are not liable for the individual shared responsibility payment under the ACA. Forms 1095-C are used to report information about offers of health coverage and enrollment in health coverage for employees, to determine whether an applicable large employer (“ALE”) owes an employer shared responsibility payment, and to determine the eligibility of employees for the premium tax credit.

The State requires that employers provide New Jersey taxpayers and the State with the same Forms 1094 and 1095 health-care coverage information they send to the IRS. Employers will file health coverage forms through New Jersey’s system for filing of W-2 forms.

If the federal government discontinues or substantially alters Forms 1094-B, 1094-C, 1095-B, or 1095-C, New Jersey will deploy similar forms and require that they be sent to the State and to New Jersey taxpayers. Employers should check the website periodically for reporting updates.

Out-of-State Employers of New Jersey Residents Are Required to Report

Out-of-State employers that withhold and remit New Jersey Gross Income Tax for New Jersey residents have the same filing requirements as businesses located in New Jersey.

Deadline

The deadline to file 2019 coverage information electronically for the 2019 tax year is **February 15, 2020**. The State indicates that it will post further instructions on its website in mid-2019. This deadline is **earlier** than the deadline to file Forms 1094 and 1095 with the IRS, which for 2018 information returns was February 28, 2019 for paper filers and April 1, 2019 for electronic filers.

Guidance on Forms Sent to New Jersey

Requirements for the filings will vary depending on whether an employer is fully insured, self-insured, or a participating employer in a multi-employer plan. The size of a company will also affect reporting requirements as detailed in the State’s guidance.

Adult Children under Age 26

The ACA requires that adult children up to age 26 be covered by their parents’ health plan.

The NJHIMPA does not require Forms 1095-B or 1095-C to be provided separately to children covered by their parents’ health plans. However, the State recommends that employers advise their employees to provide a copy of any Form 1095-B or 1095-C containing coverage information to their children residing in New Jersey (presumably, so that they can properly file their New Jersey State Income Tax returns and avoid a SRP assessment).

Employer Takeaways

Employers in New Jersey and out-of-state employers with New Jersey residents should begin to prepare for reporting for the 2019 tax year, especially since the deadline to file in New Jersey is **earlier** than the deadline to file the applicable forms with the IRS. They should monitor the State's website for further instructions on their reporting obligations.

Massachusetts, Vermont, and Washington, D.C. also have adopted individual health insurance mandates and several other states including California, Connecticut, Hawaii, Maryland, Rhode Island, Minnesota, and Washington are considering their own individual health insurance mandates. As more states adopt mandates, employers operating in multiple states should monitor their obligations in the various jurisdictions where their employees reside and expect reporting obligations to become more complex than they are under the ACA.

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