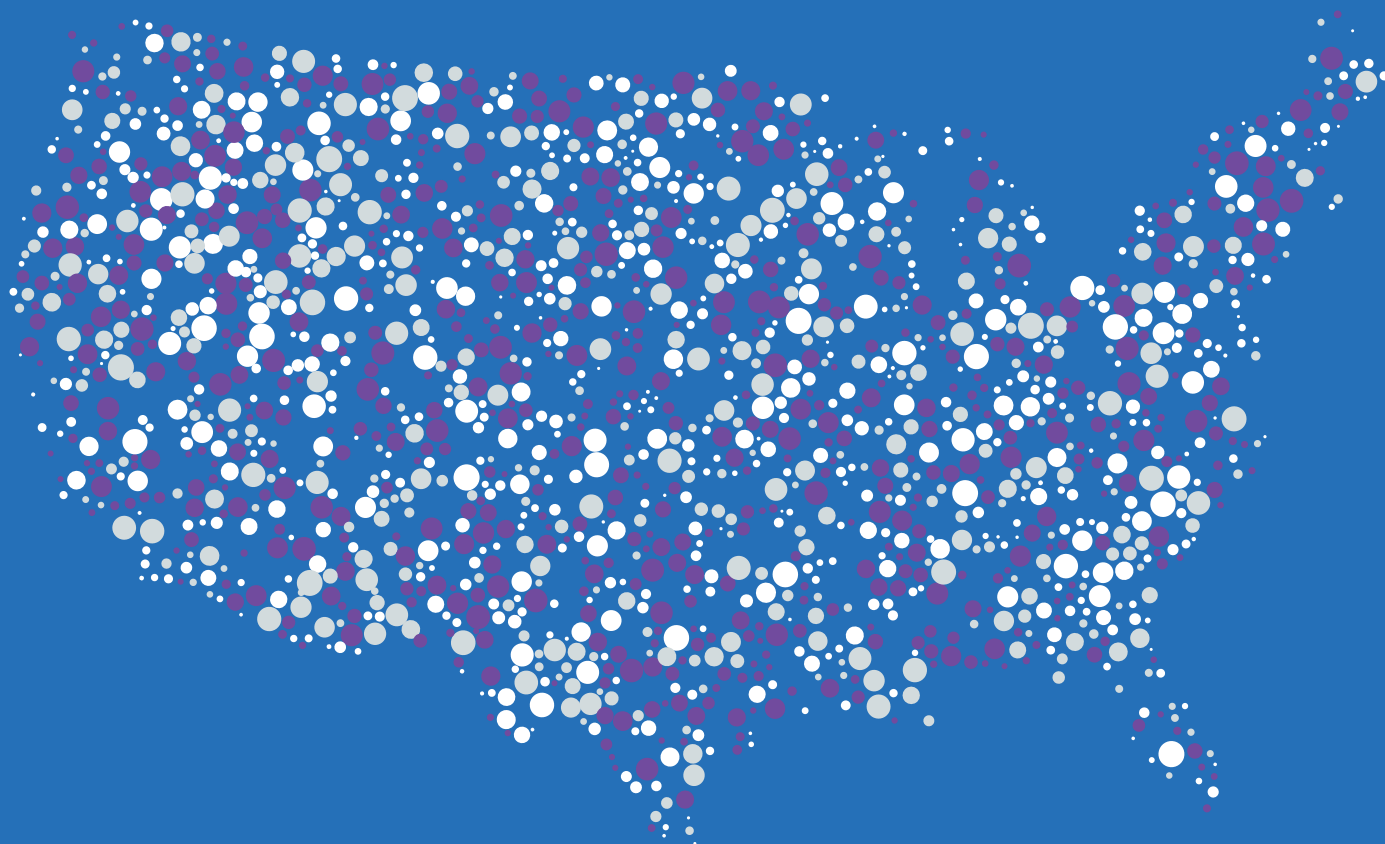
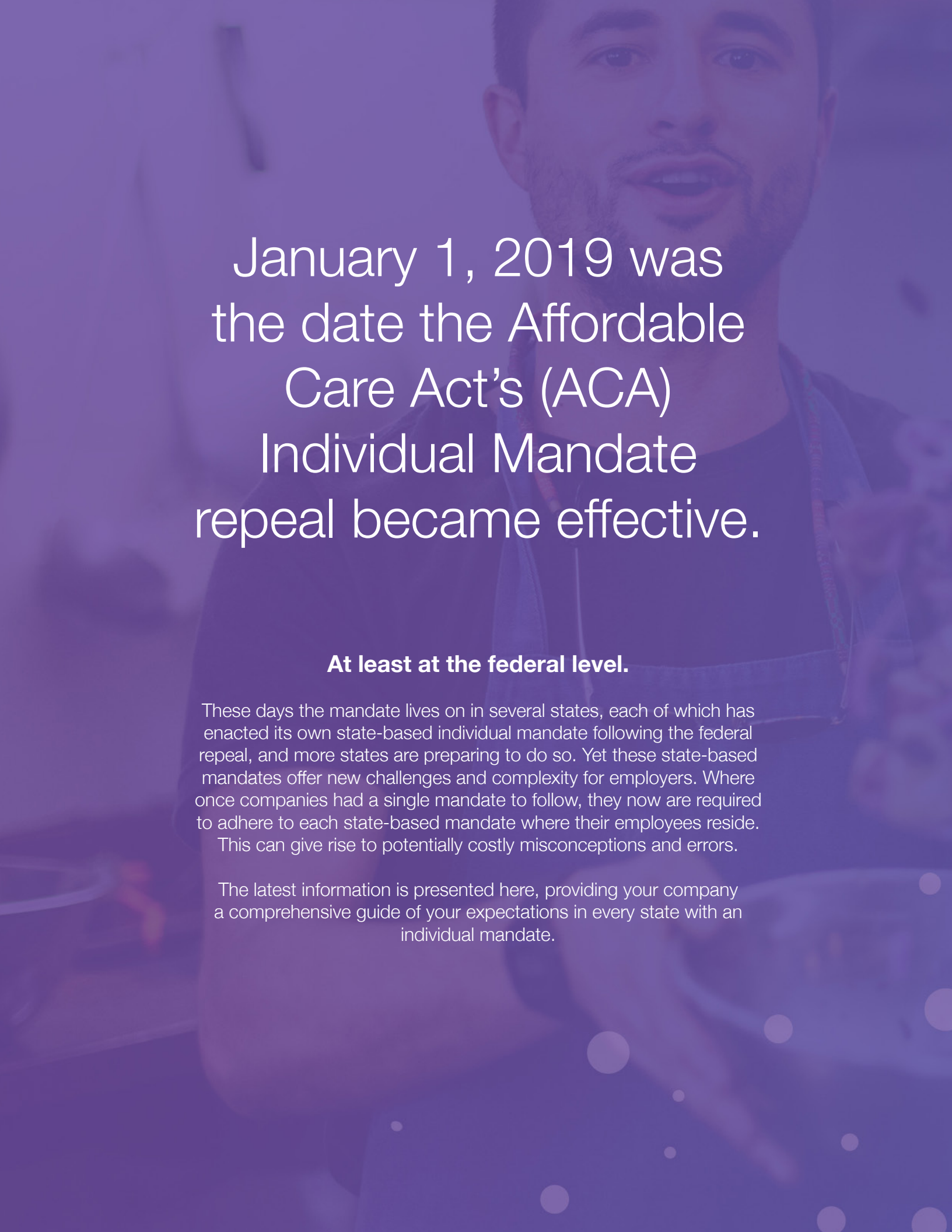




# Your state-by-state guide to individual mandate expectations.

eBook





# January 1, 2019 was the date the Affordable Care Act's (ACA) Individual Mandate repeal became effective.

## **At least at the federal level.**

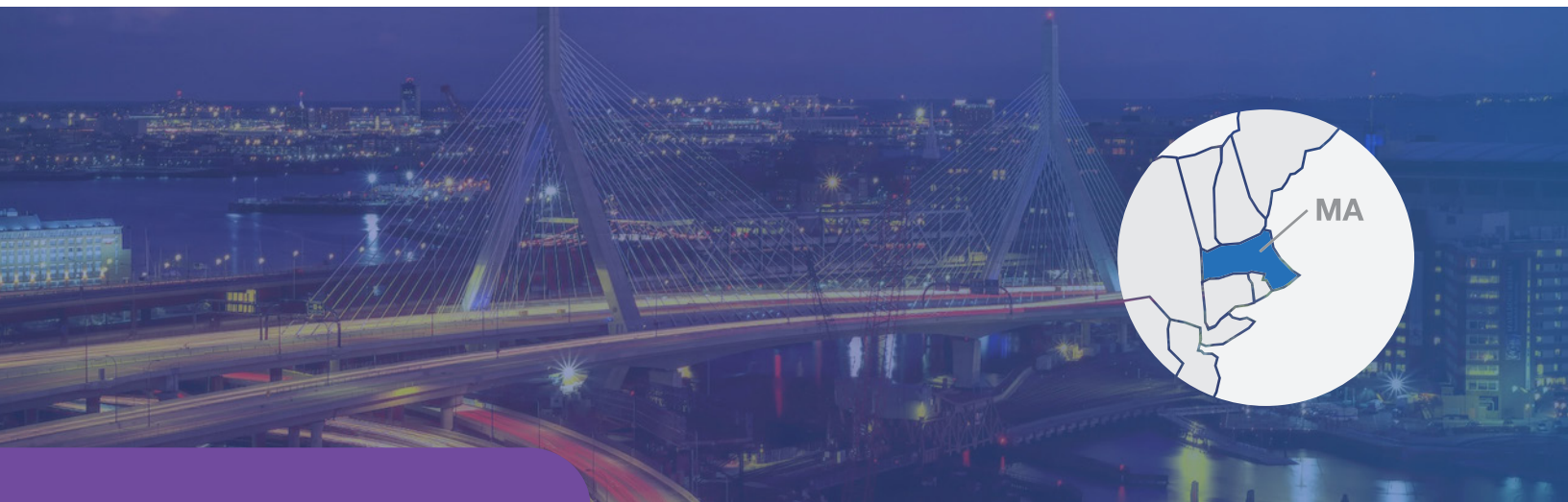
These days the mandate lives on in several states, each of which has enacted its own state-based individual mandate following the federal repeal, and more states are preparing to do so. Yet these state-based mandates offer new challenges and complexity for employers. Where once companies had a single mandate to follow, they now are required to adhere to each state-based mandate where their employees reside.

This can give rise to potentially costly misconceptions and errors.

The latest information is presented here, providing your company a comprehensive guide of your expectations in every state with an individual mandate.

## SECTION

# States that already have an individual mandate.



### MASSACHUSETTS

#### The mandate at a glance:

Massachusetts is the perfect place to begin this list because the Massachusetts mandate pre-dates the ACA. Massachusetts first implemented its state-based mandate back in 2006, and from 2014 to 2018 the Massachusetts penalties were suspended while federal penalties were in effect, but when the federal penalty was reduced to \$0, Massachusetts reinstated their original individual mandate.

#### How the Massachusetts mandate differs from the federal model:

While the Massachusetts penalty only applies to adults, the ACA mandate also included a penalty for uninsured children. Here are some other ways the Massachusetts individual mandate differs from the federal model:

- No exceptions from minimum creditable coverage (MCC) are allowed for grandfathered plans. The MCC is separate from the federal MEC requirement.
- Enrolling in a student health or public coverage plan automatically satisfies the MCC requirement.
- Affordability exemptions are dependent on income allowing for those on lower incomes to spend less of their income on health insurance. This figure can also vary depending on household makeup, i.e., single, family, couple, etc.
- Exempted populations under the Massachusetts mandate include persons with religious objections, those with demonstrated financial hardships that have been awarded a Certificate of Exemption, and children and persons who would go without coverage for less than 90 days in a year.
- Penalties are based incrementally on income and age and set against the lowest priced Commonwealth Choice plan.

### Meeting Massachusetts employer requirements:

To maintain compliance in Massachusetts, all applicable adults must be enrolled in a plan that meets minimum requirements. This is true regardless of the source of the coverage. The plan must also provide some level of coverage for services including emergency services, ambulatory services, diagnostic screening and imaging, prescription drugs, hospitalization, newborn and maternity care, surgical care, mental health and substance abuse support, radiation services and chemotherapy.

- Massachusetts considers 15 or more days of coverage a month for reporting on the MA 1099-HC
- Employee delivery of Form MA 1099-HC by 1/31
- State filing of Form MA 1099-HC to the MA Department of Revenue by 1/31
- Massachusetts requires data to be sent in an XML format (paper submission not allowed)
- Employer penalty: \$50 for each unreported individual, maximum of \$50k

Employers need to complete the MA Health Insurance Responsibility Disclosure (HIRD) Form. The HIRD form collects employer-level information about employer-sponsored insurance (ESI) offerings in Massachusetts (this version of the HIRD form contains no individual employee information). The HIRD reporting is administered by MassHealth and the Department of Revenue (DOR) through the MassTaxConnect web portal. The HIRD form will assist MassHealth in identifying its members with access to qualifying ESI who may be eligible for the MassHealth Premium Assistance Program. State law requires every employer in Massachusetts with six or more employees to annually submit a HIRD form. Deadline to submit is typically between Nov 15 and Dec 15 each year.



## THE DISTRICT OF COLUMBIA

The District's individual mandate was officially approved in 2018 and enacted in 2019 courtesy of a measure approved by the district council setting aside \$1.1 million to fund the initiative. Like Massachusetts, D.C.'s measure also carries an individual penalty for non-compliance.

### Understanding the nuances of the D.C. mandate:

The D.C. mandate is applicable for all D.C. residents. Individuals who work in D.C. but live outside the district are not subject to the mandate. Under the mandate all D.C. residents must maintain minimum essential coverage or pay a penalty on their D.C. tax returns. In some cases it may be possible to get an exemption, such as to enroll in a catastrophic plan. D.C.'s definition of minimum essential coverage follows the ACA's, requiring coverage in the 10 essential health services and benefits categories which are: Ambulatory patient services, Emergency, Hospitalization, Maternity and newborn care, Mental and substance abuse,

Prescription drugs, Rehab services and devices  
Lab, Preventive services, Pediatric.

D.C. residents who fail to comply with the mandate may be subject to a penalty amounting to 2.5% of their total household income or a per person fine of \$695 for adults and \$375.50 for children. The higher penalty in these two scenarios will be assessed. In either case the maximum penalty equates to the average premium for a bronze level plan in D.C. based on the applicable year.

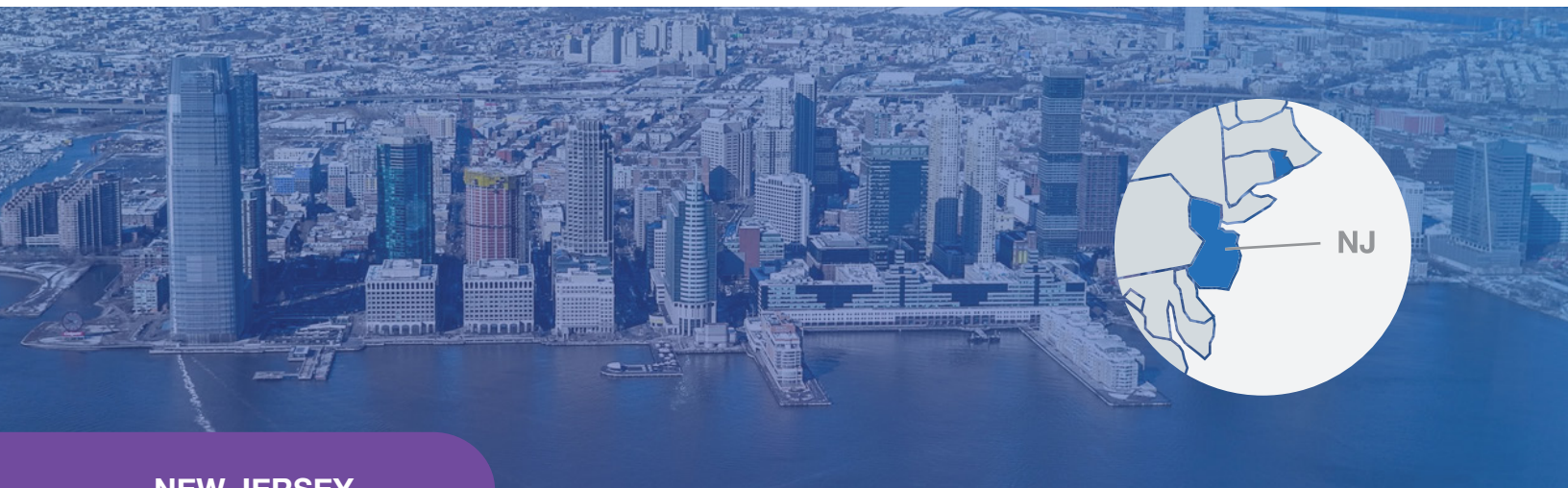
Employee delivery of Form 1095 by 1/31/2021 unless the IRS allows an extension. If the IRS does provide an extension, then D.C. will also extend.

State filing of Form 1094 and 1095 to the District's Office of Tax and Revenue by was 6/30 for tax years ending in 12/31/2019. Starting 1/1/2020, the deadline is 30 days after the IRS deadline for submitting Forms 1095-B or 1095-C, including any extensions granted by the IRS.

### Understanding employer obligations:

Firms providing health coverage to residents in D.C. are required to submit Forms 1094 and 1095-B and Forms 1094 and 1095-C to the D.C. Office of Tax and Revenue (OTR) in a .txt format. They must also provide statements about the provided coverage. All forms must be submitted within 30 days of the IRS deadline for ACA reporting for subsequent years. This includes any extensions that could be granted by the IRS.

Lastly, employers must provide applicable D.C. residents with furnished written statements of the submission. This requirement can be considered satisfied if the employer is already providing individuals with a Form 1095-B or Form 1095-C.



## NEW JERSEY

During the 2018 legislative session New Jersey lawmakers passed SB3380 and S1877, implementing the state's individual mandate starting in 2019. The legislation also includes a penalty that follows the ACA's model, assigning fines equivalent with the average cost of a bronze plan in the state.

### Taking a deeper look at the New Jersey plan:

In many ways the New Jersey state-based individual mandate represents a direct effort to reimplement the federal mandate after it was struck down. It even carries the same penalty model as the previous ACA version with a penalty of \$695 per individual and \$347.50 per uncovered child. The maximum penalty based on a per-person charge will be \$2,085 or 2.5% of household's income or a per-person charge, whichever is greater.

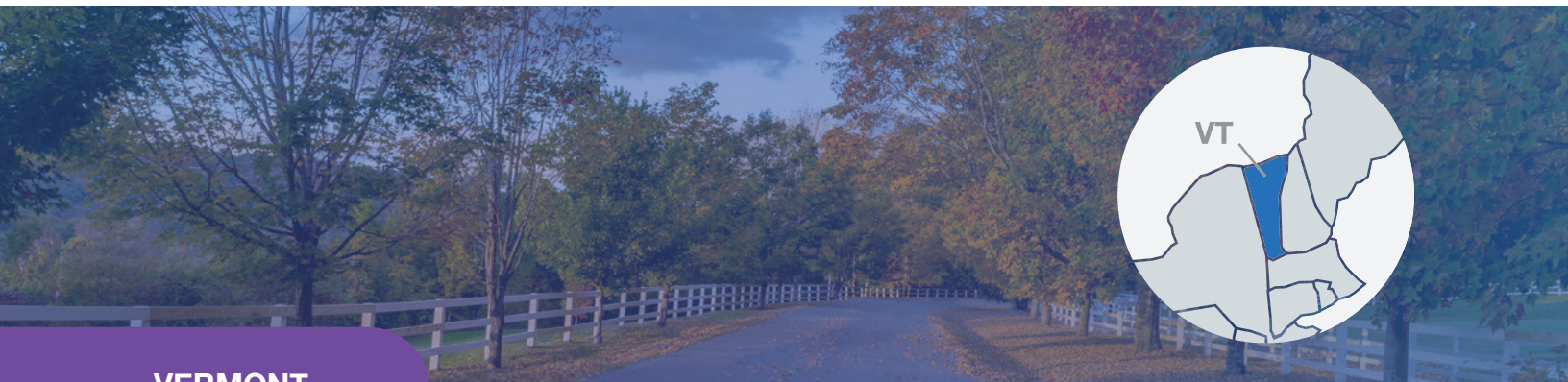
What is different with the New Jersey law is where the money goes. Penalty revenue collected is allocated to a reinsurance fund to provide payments back to insurers in order to lower overall healthcare costs.

### Understanding employer obligations:

New Jersey-based employers who utilized Forms 1095-B and 1095-C to prove coverage under the federal ACA can still use the same forms to prove coverage in New Jersey's state-based individual mandate. However, should the IRS change forms, companies operating in the Garden State may need to adjust the documents they send to the state. All submitted material should be sent electronically to the state's Division of Revenue and Enterprise Services, the same system utilized to process W-2 forms in XML format.

A firm's reporting and compliance vendor can help the company ensure it is always submitting the appropriate forms to comply with regulations in the state of New Jersey.

Employee delivery of Form 1095 by 1/31/2021  
State filing of Form 1095 to the NJ Department of Treasury by 3/31/2021 (assumed 3/31 in successive years, unless extensions are granted).

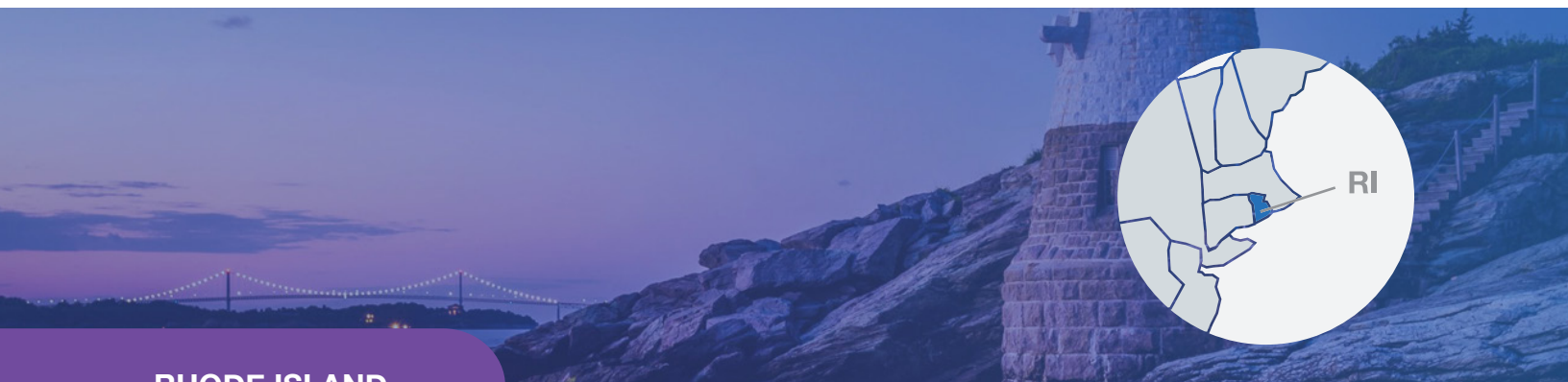


## VERMONT

The Vermont individual mandate passed in May 2018 is unique among mandates in that it carries no associated individual penalty. Initial drafts of the bill planned to carry a penalty that closely resembled the original federal penalty. However, subsequent versions of the bill removed specifics surrounding the penalty.

So, although Vermont residents are required to maintain health insurance as of 2020, there is not currently a mechanism for enforcing that requirement. The state is planning to use insurance information on tax returns in order to provide targeted outreach to help residents get enrolled in affordable health coverage.

There are no employer reporting requirements currently.



## RHODE ISLAND

In 2020, Rhode Island initiated its state individual mandate requiring residents to maintain insurance. The Rhode Island plan is a two-pronged approach including both a reinsurance program and an individual mandate. Similar to other states, however, Rhode Island's mandate includes an individual penalty for not having coverage, and the revenue collected from these penalties is utilized to fund the reinsurance program. This, in turn, helps manage premium prices on the individual market to keep healthcare affordable. Penalties mirror those for the now-repealed federal mandate.

There is still plenty of uncertainty surrounding employers' obligations regarding the Rhode Island

mandate. Employer reporting will begin in 2021 for the 2020 tax year. Employers are required to distribute forms to employees residing in Rhode Island by January 31, 2021. Information on submission of ACA reporting forms, or state-specific documentation, have not yet been released.

Employee delivery of Form 1095 by 1/31/2021  
State filing of Form 1095 to the RI Division of Taxation by 1/31/2021.

Employer reporting requirements apply when employees reside in RI.



## CALIFORNIA

California is the nation's largest state with an individual mandate thanks to the passage of bill SB-78 in July of 2019, and the mandate began January 1 of this year.

### Understanding the Golden State's mandate:

California's mandate carries an individual penalty for not having insurance coverage that mirrors the model of the federal mandate. In addition, the legislation allots for some 850,000 low-income Californians to receive subsidy support to pay their premiums. It may be possible to apply for an exemption for myriad reasons including incarceration, membership in certain religious sects or being a resident of another U.S. state.

California's definition of minimal essential coverage — necessary to meet requirements and avoid penalty — mirrors that of the federal requirement. This means individuals qualify if they are:

- Part of an employee-sponsored health plan that meets or exceeds benefits requirements
- Part of an individual policy that meets or exceeds requirements
- Part of a government-sponsored program such as Medicare, Medicaid or TriCare
- A student in the University of California system

### Employer reporting responsibilities in California:

In order to meet requirements in California, employers must submit their ACA reporting forms — or another state-based specific form — to the state by March 31, 2021 in XML format. Forms must also be distributed to California residents by January 31, 2021, with no extension. The data required with this form submission is similar to Section 6055 of the ACA.

California also states that certain parts of 1094-C are not required, specifically Part II, III, and IV, however the same Federal form 1094-C that is submitted to the IRS may be submitted to California.

It's important to note that California's mandate also carries a penalty, for employers who fall out of compliance, of \$50 per individual who is not reported to the state.

### Employee delivery of Form 1095 by 1/31/2021:

Employer reporting requirements apply when employees/non-employees reside in CA. California requires employers to only file with the state on behalf of self-insured, full-time and part-time enrollees and covered dependents.

## SECTION

# 02 States considering individual mandates

We do anticipate that more states will follow suit in pursuing ACA state individual mandates based on proposed state legislation already in motion or who are more likely to pass this type of legislation because both houses are controlled by Democrats until next election and have a state income tax structure. So, employers should anticipate some reporting changes at the state level.

States we are watching and are most likely to consider action in the future include Oregon, Colorado, New Mexico, Illinois, Virginia, Maryland, New York, Connecticut, and Maine.



## Finding answers and guidance to your state-based mandate questions

Health e(fx)'s industry-leading compliance solution simplifies managing your ACA expectations as well as those surrounding state individual mandates.

Customized to fit your needs, Health e(fx) goes beyond simple reporting by allowing you to address state compliance issues before they become a problem. By transforming complex data into an aggregated, time-aware data set, Health e(fx) prepares your company for effective compliance, reporting and audit defense.

Health e(fx) was first to offer an expanded reporting functionality which includes form generation and submissions for employers with individuals who reside in Washington D.C. and New Jersey. Health e(fx) continues to add new states that implement Individual Coverage Requirement mandates now and in the future.



**Need a better way to manage the complexities of healthcare reform? We can help.**

Call us at 888.963.9174

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