

ACA COMPLIANCE BULLETIN



ACA Reporting: Most Employers Must File Electronically Beginning in 2024

The Affordable Care Act (ACA) created reporting requirements under Internal Revenue Code (Code) Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees.

Under the original rules, any reporting entity that was required to file at least 250 individual statements under Sections 6055 or 6056 had to file electronically. However, on Feb. 23, 2023, the IRS released a [final rule](#) implementing a law change by the Taxpayer First Act of 2019, which **lowers the 250-return threshold for mandatory electronic reporting to 10 returns**. This means most reporting entities will be required to complete their ACA reporting electronically starting in 2024.

This ACA Compliance Bulletin describes the process for reporting electronically under Sections 6055 and 6056.

Action Steps

Employers that are subject to the ACA reporting rules should explore options for filing ACA reporting returns electronically. For example, they may be able to work with a third-party vendor to complete the electronic filing.

Reporting entities that may be in a position to perform their own electronic reporting can review the IRS' [ACA Information Returns \(AIR\) Program main page](#) for more information on the reporting standards for composing and successfully transmitting compliant submissions to the IRS.

Mandatory Electronic Filing

Original Threshold

Under the original reporting rules, any reporting entity that was required to file at least 250 individual statements under Sections 6055 or 6056 had to file electronically.

New, Expanded Threshold

Reporting entities that file at least 10 returns during the calendar year must file their ACA returns electronically beginning in 2024.

Important Dates

March 1, 2024

The deadline for individual statements to be furnished. (An alternative method of furnishing Form 1095-B is available.)

April 1, 2024

The deadline for filing 2023 returns with the IRS electronically.

Provided to you by **PK Benefits Consulting**

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Electronic Reporting Requirement

For 2022 returns that were filed in 2023, any reporting entity that was required to file at least 250 individual statements under Sections 6055 or 6056 had to file electronically, and this requirement applied separately to each type of individual statement. **Beginning in 2024, employers that file at least 10 returns during the calendar year must file their ACA returns electronically, and this threshold applies in the aggregate to certain information returns.** This means that a reporting entity may be required to file fewer than 10 of the applicable Form 1094 and 1095, but still have an electronic filing obligation based on other kinds of information returns filed (e.g., Forms W-2 and 1099).

Currently, electronic filing is done using the AIR Program. The IRS has provided a lot of guidance and information on electronic reporting under Section 6055 and Section 6056 through its [AIR Program main page](#). **However, this guidance is generally very technical and intended for software developers and other entities that plan on providing electronic reporting services.** Nonetheless, it can provide useful information on standards and procedures for returns transmitted through the AIR Program.

AIR Program Overview

In general, the AIR Program is used by:

- **Software developers** who develop software for creating electronic files for ACA information returns;
- **Transmitters** who will transmit information returns to the IRS on behalf of reporting entities; and
- **Issuers who have the capability** to transmit information returns directly to the IRS on their own behalf.

In most cases, issuers, employers and other reporting entities will use a third-party vendor to file electronically with the IRS on their behalf. As a result, these entities will not directly use the AIR Program themselves.

Electronic Reporting Process

The following steps must be completed by entities that submit electronic returns through the AIR Program:

- ☑ **Step One:** Register to use IRS [e-Services tools](#) and apply for the [ACA Application for Transmitter Control Code \(TCC\)](#). Reporting entities that are using third-party vendors—and are not transmitting information returns directly to the IRS—should not apply for a TCC.
- ☑ **Step Two:** Pass all applicable test scenarios. **Software developers** are required to annually pass [ACA Assurance Testing System \(AATS\)](#) testing to transmit information returns to the IRS, and those who passed testing for any tax year ending after Dec. 31, 2014, do not need to test for the current tax year. **Transmitters and issuers** must use approved software to perform the communications test, which is only required to be successfully completed once.

Additional details and IRS resources are available on the IRS' AIR Program main page.

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Waiver From Electronic Filing Requirement

A hardship waiver may be requested from the electronic filing requirement by submitting [Form 8508](#), *Application for Waiver from Electronic Filing of Information Returns*, to the IRS. Reporting entities are encouraged to submit Form 8508 **at least 45 days before the due date of the returns, but no later than the due date of the returns**. The IRS does not process waiver requests until Jan. 1 of the calendar year the returns are due.

Reporting entities cannot apply for a waiver for more than one tax year at a time and must reapply at the appropriate time for each year a waiver is required. Any approved waivers should be kept for the reporting entity's records only. A copy of an approved waiver should not be sent to the service center where paper returns are filed.

If a waiver for original returns is approved, any corrections for the same types of returns will be covered under the waiver. However, if original returns are submitted electronically, but the reporting entity wants to submit corrections on paper, a waiver must be approved for the corrections if the reporting entity must file 10 or more corrections.

Without an approved waiver, a reporting entity that is required to file electronically but fails to do so may be subject to a penalty of up to **\$310** per return (as adjusted annually) unless it can establish reasonable cause. However, reporting entities can file up to 10 returns on paper. Those returns will not be subject to a penalty for failure to file electronically. The penalty applies separately to original returns and corrected returns.