

LEGAL UPDATE



2024 FINAL FORMS AND INSTRUCTIONS FOR 2023 ACA REPORTING RELEASED

The IRS has released final 2023 forms and instructions for reporting under Internal Revenue Code Sections 6055 and 6056:

- + **2023 Forms 1094-B and 1095-B (and instructions)** will be used by providers of minimum essential coverage, including self-insured plan sponsors that are not applicable large employers (ALEs), to report under Section 6055.
- + **2023 Forms 1094-C and 1095-C (and instructions)** will be used by ALEs to report under Section 6056 as well as for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.

Draft versions of these forms were released in July, and draft instructions were released in September. **No major substantive changes were made to the final forms and instructions for 2023 reporting.**

FINAL INSTRUCTIONS ADDRESS NEW ELECTRONIC FILING THRESHOLD

The 2023 instructions include information on the new electronic filing threshold for information returns required to be filed on or after Jan. 1, 2024, which has been **decreased to 10 or more returns** (originally, the threshold was 250 or more returns).

Specifically, the instructions provide the following clarifications and reminders:

- + The 10-or-more requirement applies in the aggregate to certain information returns. **Accordingly, 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).
- + The electronic filing requirement does not apply to those reporting entities that request and receive a hardship waiver; however, the IRS **encourages electronic filing even if a reporting entity is filing fewer than 10 returns.**
- + The formatting directions in the instructions are for the preparation of **paper** returns. When filing forms electronically, the formatting set forth in the "XML Schemas" and "Business Rules" published on IRS.gov must be followed **rather than the formatting directions in the instructions.** For more information regarding electronic filing, see IRS Publications [5164](#) and [5165](#).

ACTION STEPS

Employers should become familiar with these forms and instructions for 2023 calendar year reporting and begin to explore options for filing ACA reporting returns electronically (e.g., 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 webpage](#).

KEY FACTS

Covered Plans

The PCORI fees generally apply to insurance policies providing accident and health coverage and self-insured group health plans.

Applicability Dates

The PCORI fee applies to plan or policy years ending on or after Oct. 1, 2012, and before Oct. 1, 2029.

Payment Deadline

PCORI fees are due for plan or policy years ending in 2023 on July 31, 2024.

