

Legal Update

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Final Rule Significantly Expands IRS Electronic Filing Requirement

On Feb. 23, 2023, the IRS released a [final rule](#) that substantially expands the requirement to file certain information returns electronically, including the Affordable Care Act's (ACA) reporting requirements under Sections 6055 and 6056 of the Internal Revenue Code.

The final rule implements a law change made by the Taxpayer First Act of 2019, which lowers the 250-return threshold for mandatory electronic reporting to 10 returns. This means that starting in 2024, only very small employers will be able to continue reporting to the IRS on paper forms.

Expanded Mandatory Electronic Filing

The final rule establishes lower thresholds for the electronic filing of the following employee benefit plan returns:

- **ACA Reporting (Forms 1094-B/1095-B and Forms 1094-C/1095-C):** Employers that file **at least 10 returns** during the calendar year must file their ACA returns electronically, beginning with **returns required to be filed during 2024**. The final rule requires employers to aggregate most information returns, such as Forms W-2 and 1099, to determine if they meet the 10-return threshold for mandatory electronic filing.
- **Form 5330 (Return of Excise Taxes Related to Employee Benefit Plans):** Employers must file this excise tax return electronically if they file **at least 10 returns** of any type during the calendar year that Form 5330 is due. This new threshold applies to any Form 5330 that is required to be filed for **taxable years ending on or after Dec. 31, 2023**.
- **Form 8955-SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits):** This retirement plan return must be filed electronically if an employer is required to file **at least 10 returns** of any type during the calendar year that includes the first day of the plan year. This new threshold applies to Forms 8955-SSA that are required to be filed for **plan years beginning on or after Jan. 1, 2024**.

Employers that file Form 5500 or Form 5500-SF for their employee benefit plans are currently required to file electronically through the U.S. Department of Labor's [ERISA Filing Acceptance System](#) (EFAST2). These returns cannot be filed on paper. This electronic reporting requirement has been in place since 2009.

Impact of Final Rule

The final rule will effectively eliminate paper filings for most employee benefit plan returns. Only very small employers will continue to have the option to file paper returns. Employers that have been filing paper returns should begin considering how they will transition to electronic filing.



HIGHLIGHTS

- A final rule from the IRS lowers the threshold for mandatory electronic reporting for certain types of returns from 250 returns to 10 returns.
- Beginning in 2024, most employers that are subject to ACA reporting (Sections 6055 and 6056) will be required to electronically file their returns. However, for returns that must be filed in 2023, the threshold for electronic reporting remains at 250.
- Due to the lowered threshold, only the smallest employers will be permitted to file using paper returns.