

LEGAL UPDATE



Draft Forms for 2023 ACA Reporting Released

The IRS has released draft 2023 forms for reporting under Internal Revenue Code Sections 6055 and 6056. Draft instructions for these forms have not yet been released.

- **2023 draft Forms [1094-B](#) and [1095-B](#)** are draft versions of forms that 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 draft Forms [1094-C](#) and [1095-C](#)** are draft versions of forms that ALEs will use to report under Section 6056 as well as for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.

No major substantive changes were made to the draft forms for 2023 reporting. However, certain changes may be made once these forms are finalized or when draft or final instructions are released.

IMPORTANT DATES

March 4, 2024

Individual statements for 2023 must be furnished by March 2, 2024. **However, since this is a Saturday, individual statements must be furnished by the next business day, which is March 4, 2024.**

Feb. 28, 2024

Paper IRS returns for 2023 must be filed by Feb. 28, 2024; **however, this will not be an option for most employers.**

April 1, 2024

Electronic IRS returns for 2023 must be filed by March 31, 2024. **However, since this is a Sunday, electronic returns must be filed by the next business day, which is April 1, 2024.**

Furnishing Deadline Extension

A [final rule](#) issued in late 2022 extended the annual furnishing deadlines under both Sections 6055 and 6056 for an additional 30 days. (The due date for filing forms with the IRS remains unchanged.)

In addition, the rule confirmed the availability of an alternate method for furnishing statements to individuals under Section 6055 for every year in which the individual mandate penalty is zero. Under this relief, employers generally will only have to provide Form 1095-B to covered individuals upon request.

Most Employers Must File Electronically

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

Action Steps

Employers should become familiar with these forms for 2023 calendar year reporting, keeping in mind that these are **draft versions only and should not be filed with the IRS or relied upon for filing.** Employers should also monitor future developments for the release of 2023 draft instructions, 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](#).