

# LEGAL UPDATE



## Draft Instructions for 2023 ACA Reporting Released

The IRS has released draft 2023 instructions for reporting under Internal Revenue Code Sections 6055 and 6056. Draft forms for 2023 reporting were previously released in July.

- The **2023 [draft instructions](#) for Forms 1094-B and 1095-B** can 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.
- The **2023 [draft instructions](#) for Forms 1094-C and 1095-C** can be used by ALEs to report under Section 6056 as well as for combined Section 6055 and 6056 reporting by ALEs that sponsor self-insured plans.

No major changes were made to the draft forms for 2023 reporting. However, certain changes may be made once the forms and instructions are finalized.

### Draft Instructions Address New Electronic Filing Threshold

The 2023 draft 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 draft 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 draft 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 the draft forms and instructions for 2023 calendar year reporting, keeping in mind that these are **draft versions only and should not be relied upon for filing**. Employers should also monitor future developments for the release of 2023 final forms and 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).

## IMPORTANT DATES

### March 1, 2024

Individual statements for 2023 must be furnished within 30 days of Jan. 31, 2024. **Because 2024 is a leap year, the deadline for individual statements is March 1, 2024.**

### 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.**