

Must Applicable Large Employers File ACA Information Returns Electronically?

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QUESTION: We added a large number of full-time employees in 2022 and became an applicable large employer (ALE) in 2023. We are preparing to file Forms 1094-C and 1095-C with the IRS in early 2024. Do we have to file the forms electronically?

ANSWER: Yes, beginning in 2024, essentially all ALEs must file these forms electronically. In 2023, the IRS finalized regulations substantially expanding mandatory electronic filing of information returns. For returns required to be filed after December 31, 2023, the threshold for required electronic filing is ten returns. As background, the IRS uses Forms 1094-C and 1095-C to gather the information necessary to administer Affordable Care Act (ACA) employer shared responsibility penalties. Form 1094-C generally indicates whether the ALE offered coverage to enough employees to avoid Code § 4980H(a) penalties. Form 1095-C generally indicates whether the ALE offered affordable, minimum value coverage to each full-time employee. Both forms are filed with the IRS; Form 1095-C is also furnished to employees.

For returns required to be filed on or before December 31, 2023, electronic filing with the IRS was required for ALE members who filed at least 250 Forms 1095-C for a tax year. And only Forms 1095-C were counted in determining whether the ALE member reached the 250-return threshold. However, for returns required to be filed after December 31, 2023, the threshold for required electronic filing is ten returns, determined by aggregating most information returns—including these forms and Forms W-2. Since by definition an ALE has at least 50 full-time employees, it seems unlikely that any ALE would fall under the ten-return threshold. Also, a partnership with more than 100 partners must file these returns electronically regardless of the number of returns. Any corrected return must be filed in the same format (electronic or paper) as the original return to which the correction corresponds.

Regardless of the method used for filing with the IRS, ALEs must furnish Form 1095-C to each employee on paper, unless the employee affirmatively consents to electronic distribution. The consent must be specific to Form 1095-C, with clear and conspicuous disclosure of information required by IRS regulations.

For more information, see EBIA's Form 1094/1095 Workbook for Employers and Advisors at Sections IX.E ("Method of Furnishing Statements") and X.C ("Filing Methods: Paper or Electronic"). See also EBIA's Health Care Reform manual at Section XXXVI.D ("Information Reporting of Employer-Sponsored Coverage (Applicable Large Employers)").

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