

# ACA OVERVIEW

Provided by Jaeger & Flynn Assoc., Inc.

## Code Sections 6055 & 6056—Electronic Reporting Process

The Affordable Care Act (ACA) created reporting requirements under Internal Revenue Code (Code) Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees.

Under these reporting rules, **any reporting entity that is required to file at least 250 individual statements under Sections 6055 or 6056 must file electronically.** This ACA Overview describes the process for reporting electronically under Section 6055 and Section 6056.

### LINKS AND RESOURCES

The IRS maintains an [AIR Program Main Page](#) and [AIR Program Overview](#) page for more information on electronic reporting. In addition, the IRS has issued the following guidance:

- [Publication 5165](#)—A guide that provides very detailed technical information on standards for software developers & transmitters that facilitate electronic reporting through the AIR Program.
- [Publication 5164](#)—A test package that contains general and program specific testing information for use with the ACA Assurance Testing System (AATS).
- [Publication 5258](#)—A guide that provides information for issuers, transmitters and software developers on composing and successfully transmitting compliant submissions to the IRS.

This ACA Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

### HIGHLIGHTS

#### ELECTRONIC REPORTING

- Electronic filing will be done using the **ACA Information Returns (AIR) Program**, which is currently available for both 2015 and 2016 reporting.
- **The AIR Program is not generally intended to be used by employers that are required to file under Section 6055 or Section 6056.**
- In most cases, issuers, employers and other reporting entities will use a third-party vendor to file electronically on their behalf. **As a result, these entities will not directly use the AIR Program themselves.**



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## ELECTRONIC REPORTING REQUIREMENT

Any reporting entity that is required to file **at least 250 individual statements** under Sections 6055 or 6056 must file electronically. The 250-or-more requirement applies separately to each type of individual statement. Entities filing fewer than 250 returns during the calendar year may choose to file on paper, but are allowed (and encouraged) to file electronically.

Electronic filing will be done using the ACA Information Returns (AIR) Program, which is currently available for both 2015 and 2016 reporting. The IRS has provided a lot of guidance and information on electronic reporting under Section 6055 and Section 6056 through its [AIR Program Main Page](#) and [AIR Program Overview](#) page. **However, this guidance is generally very technical, and is intended for software developers and other entities that plan on providing electronic reporting services.**

**The IRS' electronic filing guidance is not generally intended to be used by employers that are required to file under Section 6055 or Section 6056**, although it can provide some useful information on standards and procedures for returns transmitted through the AIR Program.

## AIR PROGRAM OVERVIEW

In general, the AIR Program will be used by:

- **Software developers** who develop software for creating electronic files for ACA information returns;
- **Transmitters** who will transmit information returns to the IRS on behalf of reporting entities; and
- **Issuers who have the capability** to transmit information returns directly to the IRS on their own behalf.

In most cases, issuers, employers and other reporting entities will use a third-party vendor to file electronically with the IRS on their behalf. As a result, **these entities will not directly use the AIR Program themselves.**

Entities that submit electronic returns through the AIR Program will have to first complete the [e-Services Registration](#) to obtain login credentials, and then will have to log in within 28 days to confirm their registration and activate their IRS user account. Then, entities will have to complete the ACA Information Return Transmitter Control Code (TCC) Application and receive a TCC in the mail prior to electronically filing AIR Forms 1094-B, 1094-C, 1095-B and 1095-C.

The IRS has issued a [tutorial](#) for requesting a TCC. The TCC Application is obtained through [e-Services](#).

**Reporting entities that are using third-party vendors, and are not transmitting information returns directly to the IRS, should not apply for a TCC.**

## ELECTRONIC REPORTING PROCESS

The IRS will only accept electronic forms in **Extensible Markup Language (XML) format**. XML format is a markup language that defines a set of rules for encoding documents in a format which is both human-readable and machine-readable.

**PDF, Microsoft Word, Microsoft Excel or any other electronic format will not be accepted.**

In addition, AIR forms must be transmitted to the IRS using either the **Application to Application (A2A) channel** or the **ACA Web Browser User Interface (UI) channel**. An A2A transmitter must complete the automated enrollment process to obtain a certificate prior to transmitting returns to the IRS.

- [Publication 5165](#), *Guide for Electronically Filing ACA Information Returns for Software Developers and Transmitters*, outlines the communication procedures, transmission formats, business rules and validation procedures for returns transmitted electronically through the AIR system. To develop software for use with the AIR system, software developers, transmitters and issuers should use the guidelines provided in this publication, along with the XML schemas published on [www.irs.gov](http://www.irs.gov).
- [Publication 5164](#), *Test Package for Electronic Filers of ACA Information Returns*, contains general and program-specific testing information for use with AATS. AATS refers to both the process and the system used to test software and electronic transmissions prior to accepting software developers, transmitters and issuers into the AIR System. Software developers are required to annually pass predefined AATS submissions and to test scenarios for the forms that they will support. Transmitters and issuers must pass communication tests for the forms they will file.
- [Publication 5258](#), *AIR Submission Composition and Reference Guide*, provides information on electronic composition of Forms 1094-B, 1095-B, 1094-C and 1095-C, transmitting forms through AIR and a sample XML.

Also, the IRS regularly hosts webinars, called AIR Working Group meetings, in order to provide information on electronic reporting through the AIR System. These and other IRS resources are available on the IRS' [AIR Program Main Page](#) or [AIR Program Overview](#) page.

### ***Waiver of the Electronic Reporting Requirement***

**A waiver from the requirement to file returns electronically is available.** To receive a waiver, reporting entities must submit [Form 8508](#), *Request for Waiver From Filing Information Returns Electronically*, to the IRS. Reporting entities are encouraged to submit Form 8508 **at least 45 days before the due date of the returns, but no later than the due date of the returns**. The IRS does not process waiver requests until Jan. 1 of the calendar year the returns are due.

Reporting entities cannot apply for a waiver for more than one tax year at a time, and must reapply at the appropriate time for each year in which a waiver is required. Any approved waivers should be kept for the reporting entity's records only. A copy of an approved waiver should not be sent to the service center where paper returns are filed.

If a waiver for original returns is approved, any corrections for the same types of returns will be covered under the waiver. However, if original returns are submitted electronically, but the reporting entity wants to submit corrections on paper, a waiver must be approved for the corrections if the reporting entity must file 250 or more corrections.

Without an approved waiver, a reporting entity that is required to file electronically but fails to do so may be subject to a penalty of up to \$250 per return (as adjusted annually), unless it can establish reasonable cause. However, reporting entities can file up to 250 returns on paper; those returns will not be subject to a penalty for failure to file electronically.

## **Late Filing**

The IRS announced that **electronic information returns for 2015 may continue to be filed after the filing deadline**, which was June 30, 2016. The IRS is aware that some filers may still have been in the process of completing their 2015 tax year filings after the June 30, 2016, deadline. As a result, the AIR system will remain up and running after the deadline of June 30, 2016.

**Reporting entities that were not able to submit all required ACA information returns by June 30, 2016, should still complete the filing of their returns after the deadline.**

According to the IRS:

- The AIR Program will continue to accept information returns filed after June 30, 2016. In addition, employers can still complete required system testing after June 30, 2016.
- If a transmission or submission was rejected by the AIR Program, reporting entities have 60 days from the date of rejection to submit a replacement and to have the rejected submission treated as timely filed.
- If a reporting entity submitted and received "Accepted with Errors" messages, it may continue to submit corrections after June 30, 2016.

Employers that are not electronic filers, but that missed the May 31, 2016, paper filing deadline should also complete the filing of paper returns as soon as possible.

The IRS will not assess penalties for late filing on reporting entities that have made legitimate efforts to file information returns, if they continue to make efforts and complete the process as soon as possible. In addition, penalties may be waived in some cases, for reasonable cause.