



Issued date: 08/26/21

On July 23, 2021, the IRS issued proposed rules that would significantly expand the number of employers required to electronically file information returns with the IRS. Among other things, this change would impact filing of Forms 1094-C/1095-C. If finalized “as is,” this change would take effect for filings due in 2022 (e.g., calendar year 2021 Forms 1094-C/1095-C due to be filed with the IRS by March 31, 2022). It should be noted that this article is limited to the impact the proposed rule may have on Forms 1094-C and Forms 1095-C; however, Forms 1094/1095-B are also affected (e.g., employers with fewer than 50 full-time employees who have a self-funded health plan may use these forms to comply with health coverage reporting). In addition, other forms are affected by this proposed rule but are not addressed in this article, including Forms W-2, 1099 and 5330. Review the proposed regulations for more information.

Under the current rules, employers are required to file Forms 1094-C and 1095-C electronically when filing 250 or more returns. When determining whether the 250 threshold is satisfied, each type of return is considered separately. In addition, corrected returns are generally counted separately from the original information filing and each corrected return is counted separately to determine whether electronic filing is required.

These proposed rules would change those parameters as follows:

- Lower the filing threshold. For filings due in 2022, the proposed regulations require electronic filing when 100 or more returns are filed (as opposed to 250). For

filings due in 2023 and beyond, the threshold is further reduced to 10.

It is important to note that employers with 50 or more full-time employees are generally required to file Forms 1094/1095-C to comply with the employer shared responsibility mandate. If finalized “as is” the 10-filing threshold will effectively require electronic filing for all Forms 1094/1095-C by 2023.

- Require aggregation. To determine whether an employer must file forms electronically, the proposed rules require all returns to be counted together. For example, under these proposed rules, an employer who files 300 Forms W-2 and 75 Forms 1095-C in 2022 would be required to file Form 1094-C and all Forms 1095-C electronically because, when aggregated, the employer files at least 100 returns (300 W-2s + 75 Forms 1095-C).
- Corrected returns. A corrected information return would be required to be filed in the same manner as the original form.

Employer Action

Although these are only proposed rules, given the potential 2022 effective date, employers should monitor this situation as electronic filing could be required as early as January 2022 for employers who were previously exempt.