

Compliance



Provided by BB&T Insurance Services, Inc., McGriff, Seibels & Williams, Inc., BB&T Insurance Services of California, Inc., and Precept Insurance Solutions, LLC

IRS Proposes to Expand the Electronic Filing Requirement

Legislative Alert 18-2018 June 14, 2018

Highlights:	<ul style="list-style-type: none">▪ The proposed rule would require all information returns, regardless of type, to be taken into account to determine whether an entity meets the 250-return threshold for mandatory electronic filing.▪ The proposed rule would also require electronic filing for corrected returns if the original returns were required to be filed electronically.	Important Dates:	<p>May 31, 2018</p> <ul style="list-style-type: none">▪ The IRS issued a proposed rule that would expand the electronic filing requirement for certain tax forms. <p>December 31, 2018</p> <ul style="list-style-type: none">▪ If finalized, the proposed rule would be effective for returns required to be filed after Dec. 31, 2018.
--------------------	---	-------------------------	---

OVERVIEW

On May 31, 2018, the Internal Revenue Service (IRS) published a [proposed rule](#) that **would expand the electronic filing requirement for a number of tax forms**. Current IRS rules impose a 250-return threshold for mandatory electronic filing, which applies separately to each type of information return. However, the proposed rule would require:

- ✓ **All information returns, regardless of type, to be taken into account** to determine whether a reporting entity meets the 250-return threshold; and
- ✓ **Any reporting entity subject to the electronic reporting requirement to file corrected information returns electronically**, regardless of the number of corrected information returns being filed.

ACTION STEPS

This proposed rule would impose mandatory electronic filing for significantly more reporting entities. According to the IRS, most forms are currently filed electronically. However, employers that don't currently file electronically with the IRS should evaluate the number of information returns that they file to determine how this new standard could affect them.

Overview of Mandatory Electronic Filing

Existing IRS rules require reporting entities that file 250 or more information returns to file electronically. However, this 250-return threshold applies separately to each type of return. This means that each type of return is counted separately and not aggregated when determining whether the 250-return threshold applies.

These rules generally cover the following tax forms (among others):

- ✓ **Form W-2** (Wage and Tax Statement);
- ✓ Forms in the 1094 series (including **Forms 1094-B and 1094-C**, the required transmittal forms under Section 6055 and Section 6056);
- ✓ **Forms 1095-B and 1095-C** (the required individual or employee statements under Section 6055 and Section 6056); and
- ✓ Forms in the **1099 series**.

When the electronic filing rules were originally established, electronic filing was in the early stages of development and was not as commonly used as it is today. However, according to the IRS, significant advances in technology have made electronic filing more prevalent and accessible, in many cases making it less costly and easier for reporting entities than paper filing. The IRS asserted that most information returns are already filed electronically (approximately 98.5 percent in the 2016 tax year). As a result, the IRS no longer believes that determining the 250-return threshold on a form-by-form basis without aggregation is necessary to relieve taxpayer burden and cost.

Proposed Expansion of the Electronic Filing Requirement

Due to these advances in technology, the proposed rule would require reporting entities to count all information returns, regardless of type, to determine whether they meet the 250-return threshold and, therefore, must file the information returns electronically. Specifically, under the proposed rule, **a reporting entity that is required to file a total for 250 or more information returns of any type covered by this rule during a calendar year will be required to file those information returns electronically.**

Example: Company W is required to file 200 Forms 1099–INT (Interest Income) and 200 Forms 1099–DIV (Dividends and Distributions), for a total of 400 returns. Because Company W is required to file 250 or more returns covered by this rule for the calendar year, Company W must file all Forms 1099–INT and Forms 1099–DIV electronically.

Corrected information returns are **not taken into account** in determining whether the 250-return threshold is met under the proposed rule. However, the proposed rule would also require corrected information returns to be filed electronically if the original information returns were required to be filed electronically.

According to the IRS, this rule change would help facilitate efficient and effective tax administration.

However, the rule change would require significantly more reporting entities to file information returns electronically with the IRS. Often, this involves working with a third-party service provider that offers information return preparation and electronic filing.

Notably, though, the proposed rule **does not change the existing regulations allowing reporting entities that are required to file returns electronically to request a waiver of the electronic filing requirement.** As a result, electronic reporting waivers will still be available for reporting entities that properly request them. Electronic reporting waivers are intended to relieve the burden on reporting entities that lack the necessary data-processing capabilities or access to return preparers and third-party service providers at a reasonable cost.

Effective Date

The proposed rule is proposed to be effective once final regulations are issued and become applicable. However, to give reporting entities sufficient time to comply with the new rule, the proposed rule will not apply to information returns required to be filed before Jan. 1, 2019. Therefore, the proposed rule, if finalized, would generally be effective for:

- ✓ Information returns required to be filed after Dec. 31, 2018; and
- ✓ Corrected information returns filed after Dec. 31, 2018.