



Mandatory Reporting and Electronic Filing Requirements

December 2016

IMPORTANT

For VEHI employers planning to file 250 or more 1095-C's with the IRS in 2017 (2016 calendar year reporting), the regulations mandate that the filing be done electronically. Groups not planning to file 250 or more 1095-C's with the IRS can file electronically or on paper.

As the process for reporting electronically developed, it became clear that an employer would face difficulty in filing on their own due to significant technical requirements. Based on our understanding of the technical requirements, it would be impractical for any VEHI member to file electronically without a vendor managing the submission. Therefore, unless a VEHI member has partnered with a vendor who is producing AND filing on their behalf, the recommended course of action is for members to file on paper for the 2016 calendar year. Groups planning to file 250 or more 1095-C's, filing on paper requires that a waiver for electronic reporting be submitted and approved.

If you received a waiver from the mandatory electronic filing requirement for the 2015 calendar year filing and you believe you will need a waiver for the 2016 calendar year, you must apply for a waiver for the 2016-filing year. A waiver applies only to the tax year for which it was filed. Requesting the waiver as soon as possible will maximize the likelihood that the IRS will grant the waiver.

This memo only addresses a waiver from the electronic filing requirement. A waiver from the electronic filing requirement does not modify the deadline to distribute Form 1095-Cs to employees/non-employees. The deadline for the distribution to employees/non-employees, originally set for January 31, 2017 was automatically extended to March 2, 2017. If you receive a waiver from the electronic filing requirement, the deadline for paper submissions to the IRS is February 28, 2017.

VEHI can provide support to members with electronic filing in the following ways:

1. Provide you with "How To" steps on obtaining a waiver from the IRS to complete the filing on paper for the first year;
2. Obtain quotes from vendors who have developed relationships with Gallagher Benefits Services; and
3. Provide you with general information on the electronic filing requirements.

This memo provides general information on the electronic reporting process and steps that must be completed to obtain a waiver from the electronic filing process.

Background:

A school filing at least 250 Form 1095-Cs must file them electronically with the IRS by March 31, 2017. Because the Form 1095-Cs must be filed with at least one completed transmittal sheet (Form 1094-C), the transmittal sheet must also be electronically filed. A school that is required to file less than 250 Form 1095-Cs is not required to file the Form 1095-Cs electronically, but has the option to do so.

The IRS has developed a special system to complete the electronic filing submission (the “AIR” program). Although there have been testing opportunities, the IRS has generally geared its testing scenarios and written publications to software developers and IT personnel. This presents a significant challenge for the average employer that seeks to complete the electronic filing process without assistance from a vendor.

Entities who intend to file electronically without the assistance of a vendor must:

- Complete the e-services registration (<https://www.irs.gov/Tax-Professionals/e-services---Online-Tools-for-Tax-Professionals>);
- Obtain log-in credentials;
- Log-in within 28 days to confirm their registration to activate the account; and
- Obtain the ACA Information Return Transmitter Control Code (TCC) Application prior to the submission deadline (a tutorial on the topic can be found at https://www.irs.gov/PUP/for_taxpros/software_developers/information_returns/aca_app_tutorial_online.pdf).

Although the above steps could likely be accomplished without the use of knowledgeable IT staff or software developers, the process does not end there. Use of the AIR Program requires an understanding of your school’s electronic operating system and its compatibility with the IRS’s electronic filing requirements. Some (but not all of the requirements) include:

- The submission of AIR forms in Extensible Markup Form. The AIR forms must be filed in XML format. No other format will be accepted; and
- Transmission of the AIR forms via the Application to Application Channel (A2A) or the ACA Web Browser Interface Channel (UI).

Any entity using the A2A transmission process must also complete an Automated Enrollment process with the IRS to obtain a certificate prior to any submission through the AIR system.

Due to the entailed process, it appears impractical for an employer to complete the electronic submission process without making updates to its existing system or contracting with a vendor that has received the required approvals. For this reason, we recommend that any school that is subject to the electronic filing requirement consider consultation with a vendor and a waiver request.

Waiver Request:

A waiver request must be made on IRS Form 8508. Filers are encouraged to file Form 8508 at least 45 days before the due date of the returns, but no later than the due date of the return. However, to maximize the likelihood the waiver is granted, we encourage you to make this request as soon as

possible. **NOTE:** The IRS does not process waiver requests until January 1st of the calendar year the returns are due.

As part of the waiver request form, you must indicate whether you have requested a waiver for electronic filings of any of the IRS returns listed below.

1042-S	1098-E	1099-DIV	1099-OID	3921	W-2
1094-C/1095-C	1098-T	1099-G	1099-PATR	3922	W-2AS
1095-B	1099-A	1099-INT	1099-Q	5498	W-2G
1097-BTC	1099-B	1099-K	1099-R	5498-ESA	W-2GU
1098	1099-C	1099-LTC	1099-S	5498-SA	W-2PR
1098-C	1099-CAP	1099-MISC	1099-SA	8027	W-2VI

If the answer is “YES”, you are required to submit two **current** cost estimates from third parties for software, software upgrades or programming for your current system, or costs to prepare your files for you with your waiver request. While we do not anticipate this to be a common concern for VEHI members, Gallagher stands ready to assist members with producing these cost estimates for members on an individual member basis.

Complete form 8508 as described below.

Question 1: Check Original Submission.

1. Type of submission Original Reconsideration

Question 2: Provide general employer information (name of school, address, city, state, zip code, and contact telephone number);

2. Payer name, **complete** address, and contact person. (A *separate* Form 8508 must be filed for *each* payer requesting a waiver.)

Payer name District ABC

Address 52 Pike Dr.

City Berlin State VT Zip code 05602

Contact person Allison Administrator

Question 3: Provide your tax id number.

3. Taxpayer Identification Number
(9-digit EIN/SSN)

37-000001

Question 4: Provide a telephone number and e-mail address.

4. Telephone number
(555) 555 - 5555

Email address
District@districtABC.edu

Question 5: Mark the Box for Forms 1094-C/1095-C with an "X". You must include an estimate of how many Forms 1094-Cs/1095-Cs you will file electronically for this year and for next year. These numbers should be at least 250 or more. This is only an estimate.

5. Waiver Requested for:	Enter the Number of Returns that:	
	(a) You expect to file on paper	(b) You expect to file next tax year
<input type="checkbox"/> 1042-S		
<input checked="" type="checkbox"/> 1094-C/1095-C	430	430
<input type="checkbox"/> 1095-B		

Question 6: Check NO.

6. Is this waiver requested for corrections ONLY? Yes No

Question 7: Check 'Yes' only if you have not requested a waiver for any of the above-listed forms in the past and skip to line 9;

7. Is this the first time you requested a waiver from the electronic filing requirements for any of the forms listed in Block 5?
 Yes (Skip to signature line) No (Complete Block 8 if your request is due to undue hardship)

Question 8: If you checked 'Yes' to Question 7, SKIP Question 8; and

8. Enter two current cost estimates provided to you by third parties for software, software upgrades or programming for your current system, or costs to prepare your files for you. \$ _____
 Cost estimates for any reason other than the preparation of electronic files will not be acceptable. \$ _____
 Attach the two current cost estimates to Form 8508.
Note: Failure to provide current cost estimates and/or signature will result in a denial of your waiver request.

Question 9: Include an authorized signature, date and sign. The waiver request must be signed by the payer or a person duly authorized to sign a return or other document on his behalf. Only the person required to file electronically can sign Form 8508. A transmitter cannot sign Form 8508 for the payer, unless a power of attorney has been established. If you have a power of attorney, attach a copy to this form.

9. Signature	Title	Date
Allison Administrator <small>Digitally signed by Allison Administrator DN: cn=Allison Administrator, o=www.VEHI.org, email=Allison@VEHI.org, c=US</small>	Administrator	1/4/2017

A completed example is posted on www.VEHI.org, and copy of the fillable Form 8508 is available on both www.VEHI.org and directly through the IRS at <https://www.irs.gov/pub/irs-pdf/f8508.pdf>.

If a waiver for the electronic submission of Forms 1095-C/1094-C is approved, any corrections may also be submitted on paper. A school that is required to file electronically, but fails to do so without an approved waiver will be subject to a general fine of up to \$500 per individual (this is based upon a \$250 fine per employee who should have received a return and another \$250 for failing to file with the IRS).

Electronic Filing Facts

- If you are required to file 250 or more information returns, you must file electronically.
- The 250-or-more requirement applies separately to each type of form filed **and** separately for original and corrected returns.
 - For example, if you must file 500 Forms 1095-B and 100 Forms 1095-C, you must file Forms 1095-B electronically, but you are not required to file Forms 1095-C electronically.
- If you have 150 Forms 1095-C to correct, you may file the corrected returns on paper because they fall under the 250 threshold.
- However, if you have 300 Forms 1095-C to correct, they must be filed electronically. The electronic filing requirement does not apply if you apply for and receive a hardship waiver.
- The IRS encourages you to file electronically even though you are filing fewer than 250 returns.

Waiver.

- To receive a waiver from the required filing of information returns electronically, submit Form 8508.
- You are encouraged to file Form 8508 at least 45 days before the due date of the returns, but no later than the due date of the return.
- The IRS does not process waiver requests until January 1st of the calendar year the returns are due.
- You cannot apply for a waiver for more than one tax year at a time. If you need a waiver for more than one tax year, you must reapply at the appropriate time each year.
- If a waiver for original returns is approved, any corrections for the same types of returns will be covered under the waiver.
- However, if you submit original returns electronically but you want to submit your corrections on paper, a waiver must be approved for the corrections if you must file 250 or more corrections.
- If you receive an approved waiver, do not send a copy of it to the service center where you file your paper returns. Keep the waiver for your records only.
- If you are required to file electronically but fail to do so, and you do not have an approved waiver, you may be subject to a penalty of \$260 per return for failure to file electronically unless you establish reasonable cause. However, you can file up to 250 returns on paper; those returns will not be subject to a penalty for failure to file electronically. The penalty applies separately to original returns and corrected returns.