

Treasury Department, IRS Release Final eFiling Requirements

The Treasury Department and IRS released changes to the electronic filing requirements for information returns this week. [TD 9972](#) changed the requirements for a number of tax returns submitted to the IRS by businesses including a variety of 1099s, Form *1042 Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*, and more. Effective with 2023 returns, businesses will need to update technology and processes to accommodate for these changes to the IRS filing requirements.

Background

Prior law prohibited the Treasury and IRS from imposing any requirement on businesses that file less than 250 returns during a calendar year to do so electronically. [Section 2301 of the Taxpayer First Act \(TFA\)](#) authorized the government to amend the electronic filing thresholds for a variety of tax returns. Generally, under the TFA, the return filing thresholds were reduced to 100 returns for 2020 and down to 10 returns after 2021. The Treasury and the IRS [proposed regulations in late July 2021](#) but never published the final requirements until this week. Therefore, businesses continued to file returns following the 250-return threshold limit.

[TD 9972](#) requires businesses to electronically submit information returns following the 10-return threshold, effective with returns filed for the 2023 tax year (submitted to the IRS in early 2024).

Key changes that may impact your organization's tax filing processes

- **The electronic filing mandate will apply to all filers who must file 10 or more returns, and the filing threshold will be calculated in the aggregate, accounting for all return types an entity is required to file (rather than on a per-return type basis).** Businesses that meet the required aggregated filing thresholds will need to eliminate all paper return filing processes for tax information reporting – across all lines of business. [TD 9972](#) also updated the applicable [section 6721 penalties](#), so it's important to look across the business and ensure that all returns—W-2s, 1099s, ACA forms, 1042-S forms, etc.—are filed electronically for 2023 and beyond.
- **Corrections must be filed in the same manner as their corresponding originals were filed.** Many small- to medium-sized businesses leverage technology built into core business software to generate original versions of information returns, but these solutions typically don't include support for correcting 1099 information that was previously filed. This means businesses often send those corrections on paper. With this change, businesses will need to automate all parts of the information reporting process to avoid penalties.
- **Form 1042 Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, previously filed on paper, must now be filed electronically annually when the withholding agent is also required to file at least 10 information returns for the calendar year.** This provision is not required if the withholding agent is an individual, estate or trust. However, if a withholding agent needs to file an amended Form 1042, it will still need to be submitted to the IRS on paper.
- **Non-U.S. Filers must have a U.S. TIN to obtain credentials to electronically file information returns with the IRS.** The IRS acknowledges that the requirements for individuals that use any IRS system to have a U.S. taxpayer identification number (TIN) has hampered the ability for non-U.S. financial institutions and qualified intermediaries to file electronic Forms 1042-S and 1099s. While the

Treasury and the IRS acknowledge the issue in the final regulations, they are currently still moving forward with the change in electronic filing requirements.

- **Waivers from the filing requirements will be considered on a form-by-form basis rather than a per-filer basis.** Businesses can submit [Form 8508 Application for a Waiver from Electronic Filing of Information Returns](#) to the IRS and indicate the return(s) for which they are applying for relief; and the IRS will approve or deny those requests. If a filer is submitting the request for the first time, they do not need to provide a reason for the request—it will automatically be granted. After that, the IRS requires documentation to be submitted to prove the reasons the waiver is needed. For example, a religious group where use of technology conflicts with their beliefs, or a company that can prove that electronic filing would be a hardship.

To avoid penalties, businesses should act now to ensure technology and operational processes are updated to comply with these electronic filing changes. If your organization has been using 1099 Pro software to prepare and file returns on paper, 1099 Pro Service Bureau can help make the process of electronic filing simple and affordable. Visit the [1099 Services](#) page for more information.