Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.602: Tax forms and instructions.
(Also Part I, Sections 6012, 6061; 1.6012-5, 1.6061-1.)

Rev. Proc. 2000-31

CONTENTS

SECTION 1 PURPOSE

SECTION 2 BACKGROUND AND CHANGES

SECTION 3 DEFINITIONS

SECTION 4 ACCEPTANCE IN THE IRS e-file PROGRAM

SECTION 5 RESPONSIBILITIES OF AN AUTHORIZED IRS e-file PROVIDER

SECTION 6 PENALTIES

SECTION 7 MONITORING AND SANCTIONING OF AN AUTHORIZED IRS e-file PROVIDER

SECTION 8 ADMINISTRATIVE REVIEW PROCESS

SECTION 9 PILOT PROGRAMS

SECTION 10 EFFECT ON OTHER DOCUMENTS

SECTION 11 EFFECTIVE DATE

SECTION 12 INTERNAL REVENUE SERVICE OFFICE CONTACT

SECTION 1. PURPOSE

This revenue procedure informs those who participate in the IRS e-file Program of their obligations to the Internal Revenue Service, taxpayers, and other participants. The IRS e-file Program allows taxpayers to file their income tax returns through an Electronic Return Originator, or by using a personal computer, modem, and commercial tax

preparation software (the Form 1040 IRS On-Line Filing Program). The following returns can be filed under the IRS e-file Program: (1) Form 1040 and Form 1040A, U. S. Individual Income Tax Return; and (2) Form 1040EZ, Income Tax Return for Single and Joint Filers with no Dependents. This revenue procedure modifies and supersedes Rev. Proc. 98-50, 1998-2 C.B. 368 (IRS e-file Program), and Rev. Proc. 98-51, 1998-2 C.B. 380 (Form 1040 IRS On-Line Filing Program).

SECTION 2. BACKGROUND AND CHANGES

.01 Section 1.6011-1(a) of the Income Tax Regulations provides that every person subject to income tax must make a return or statement as required by the regulations. The return or statement must include the information required by the applicable regulations or forms.

.02 Section 301.6061-1(b) of the Regulations on Procedure and Administration authorizes the Secretary to prescribe in forms, instructions, or other appropriate guidance the method of signing any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations.

.03 Section 1.6012-5 of the regulations provides that the Commissioner may authorize the use, at the option of a person required to make a return, of a composite return in lieu of any form specified in 26 CFR Part 1 (Income Tax), subject to the conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.04 This revenue procedure combines the rules governing the IRS e-file Program with the rules governing the Form 1040 IRS On-Line Filing Program (previously set forth in Rev. Proc. 98-50 and Rev. Proc. 98-51, respectively).

.05 This revenue procedure incorporates substantive changes made to the IRS e-file Program, including changes to the definitions of program participants (see section 3 of this revenue procedure) and changes to the sanctions that may be imposed upon Authorized IRS e-file Providers (see section 7 of this revenue procedure).

.06 Many of the rules governing participation in the IRS e-file Program are now set forth in IRS Publications. See section 5.01 of this revenue procedure.

SECTION 3. DEFINITIONS

.01 A participant in the IRS e-file Program is referred to as an “Authorized IRS e-file Provider.” The Authorized IRS e-file Provider categories are:

(1) ELECTRONIC RETURN ORIGINATOR. An "Electronic Return Originator" (ERO) originates the electronic submission of income tax returns.

(2) INTERMEDIATE SERVICE PROVIDER. An “Intermediate Service Provider” receives tax return information from an ERO (or from a taxpayer who files electronically using a personal computer, modem, and commercial tax preparation software), processes the tax return information, and either forwards the information to a Transmitter, or sends the information back to the ERO (or taxpayer).

(3) SOFTWARE DEVELOPER. A "Software Developer" develops software for the purposes of (a) formatting electronic tax return information according to Publication

1346, Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns; and/or (b) transmitting electronic tax return information directly to the Service.

(4) TRANSMITTER. A "Transmitter" transmits electronic tax return information directly to the Service.

.02 The Authorized IRS e-file Provider categories are not mutually exclusive. For example, an ERO can, at the same time, be a Transmitter, Software Developer, or Intermediate Service Provider depending on the function(s) performed.

.03 A “Responsible Official” is an individual with authority over the IRS e-file operation of the office(s) of the Authorized IRS e-file Provider, is the first point of contact with the Service, and has authority to sign revised IRS e-file applications. A Responsible Official is responsible for ensuring that the Authorized IRS e-file Provider adheres to the provisions of this revenue procedure and the publications and notices governing the IRS e-file Program.

SECTION 4. ACCEPTANCE IN THE IRS e-file PROGRAM

.01 Individuals, businesses, and organizations that wish to participate in the IRS e-file Program must apply for participation and must be accepted by the Service.

.02 The procedures governing application to the IRS e-file Program are included in Publication 3112, The IRS e-file Application Package.

.03 The circumstances under which the Service may deny participation in the IRS e-file Program are included in Publication 1345, Handbook for Authorized e-file Providers of Individual Income Tax Returns. An applicant who is denied participation may seek administrative review of the denial. See section 8 of this revenue procedure.

.04 To continue participation in the IRS e-file Program, Authorized IRS e-file Providers must adhere to all requirements of this revenue procedure and the publications and notices governing the IRS e-file Program.

SECTION 5. RESPONSIBILITIES OF AN AUTHORIZED IRS e-file PROVIDER

.01 To ensure that returns are accurately and efficiently filed, an Authorized IRS e-file Provider must comply with the provisions of this revenue procedure and all publications and notices governing the IRS e-file Program. The Service will from time to time update such publications and notices to reflect changes to the program. It is the responsibility of the Authorized IRS e-file Provider to ensure that it complies with the latest version of all publications and notices. The publications and notices governing the IRS e-file Program include:

(1) Publication 1345, Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns;

(2) Publication 1345A, Filing Season Supplement for Authorized IRS e-file Providers of Individual Income Tax Returns;

(3) Publication 1346, Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns;

(4) Publication 1436, Test Package for Electronic Filing of Individual Income Tax Returns;

(5) Publication 3112, The IRS e-file Application Package; and

(6) Postings to the Electronic Filing System Bulletin Board (EFS Bulletin Board) and the IRS "Digital Daily" web site at:

http://www.irs.gov

on the Internet.

.02 The publications and notices listed in section 5.01 supplement this revenue procedure but do not supersede it. A violation of a provision of these publications and notices is considered a violation of this revenue procedure and may subject the participant to the sanctions provided in section 7 of this revenue procedure.

SECTION 6. PENALTIES

.01 Penalties for Disclosure or Use of Information.

(1) An Authorized IRS e-file Provider, except a Software Developer that does not have access to taxpayer information, is a tax return preparer under the definition of § 301.7216-1(b). A tax return preparer is subject to a criminal penalty for unauthorized disclosure or use of tax return information. See § 7216 of the Internal Revenue Code and § 301.7216-1(a). In addition, § 6713 establishes civil penalties for unauthorized disclosure or use of tax return information.

(2) Under § 301.7216-2(h), disclosure of tax return information among Authorized IRS e-file Providers for the purpose of electronically filing a return is permissible. For example, an ERO may pass on tax return information to an Intermediate Service Provider and/or a Transmitter for the purpose of having an electronic return formatted and transmitted to the Service.

.02 Other Preparer Penalties.

(1) Preparer penalties may be asserted against an individual or firm meeting the definition of an income tax return preparer under § 7701(a)(36) and § 301.7701-15.

Preparer penalties that may be asserted under appropriate circumstances include, but are not limited to, those set forth in §§ 6694, 6695, and 6713.

(2) Under § 301.7701-15(d), Authorized IRS e-file Providers are not income tax return preparers for the purpose of assessing most preparer penalties as long as their services are limited to "typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund."

(3) If an ERO, Intermediate Service Provider, Transmitter, or the product of a Software Developer alters the return information in a nonsubstantive way, this alteration will be considered to come under the "mechanical assistance" exception described in § 301.7701-15(d). A nonsubstantive change is a correction or change limited to a transposition error, misplaced entry, spelling error, or arithmetic correction.

(4) If an ERO, Intermediate Service Provider, Transmitter, or the product of a Software Developer alters the return information in a way that does not come under the “mechanical assistance” exception, the Authorized IRS e-file Provider may be held liable for income tax return preparer penalties. See § 301.7701-15; Rev. Rul. 85-189, 1985-2 C.B. 341 (which describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties).

.03 Other Penalties. In addition to the above specified provisions, the Service reserves the right to assert all appropriate preparer, nonpreparer, and disclosure penalties against an Authorized IRS e-file Provider as warranted under the circumstances.

SECTION 7. MONITORING AND SANCTIONING OF AN AUTHORIZED IRS e-file PROVIDER

.01 The Service will monitor Authorized IRS e-file Providers for compliance with the rules governing the IRS e-file Program. The Service may sanction an Authorized IRS e-file Provider for violating any provision of this revenue procedure or the publications and notices governing the IRS e-file Program.

.02 Sanctions that the Service may impose upon an Authorized IRS e-file Provider for violations described in section 7.01 of this revenue procedure include a written reprimand, suspension or expulsion from the program, and other sanctions, depending on the seriousness of the infraction. Publication 1345 describes the infraction categories and the rules governing the imposition of sanctions.

SECTION 8. ADMINISTRATIVE REVIEW PROCESS

.01 An applicant that has been denied participation in the IRS e-file Program (see section 4.03 of this revenue procedure) has the right to an administrative review. During the administrative review process, the denial of participation remains in effect.

.02 An Authorized IRS e-file Provider may seek administrative review for any sanction the Service may impose under section 7 of this revenue procedure.

.03 Publication 1345 describes the procedures regarding administrative review of a denial of participation in the IRS e-file Program and any sanction imposed by the Service.

SECTION 9. PILOT PROGRAMS

.01 The Service regularly conducts pilot programs to introduce new technology into the IRS e-file Program. These pilot programs are usually conducted within a limited geographic area or within a limited taxpayer or practitioner community. The Service establishes rules for participating in these pilot programs and embodies these rules in an implementing document typically referred to as a "Memorandum of Understanding" (MOU) or "Memorandum of Agreement" (MOA). Pilot participants must agree to the provisions of the implementing document in order to participate in the pilot program.

.02 An implementing document supplements this revenue procedure, but does not supersede it. Participants in a pilot program remain subject to the provisions of this revenue procedure unless the implementing document specifically provides otherwise.

.03 A violation of a provision of an implementing document is considered a violation of this revenue procedure and may subject the participant to sanctions (see section 7 of this revenue procedure).

SECTION 10. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 98-50, 1998-2 C.B. 368, and Rev. Proc. 98-51, 1998-2 C.B. 380, are modified and, as modified, are superseded.

SECTION 11. EFFECTIVE DATE

This revenue procedure is effective July 13, 2000, except for the provisions of section 7 of this revenue procedure, which are effective for sanctions imposed on or after January 1, 2001.

SECTION 12. INTERNAL REVENUE SERVICE OFFICE CONTACT

All questions regarding this revenue procedure should be directed to the Internal Revenue Service. The telephone number for this purpose is (202) 283-0531 (not a toll-free number).