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SECTION 1. PURPOSE

This revenue procedure informs Authorized IRS *e-file* Providers of their obligations to the Internal Revenue Service (the Service), taxpayers, and other participants in the IRS *e-file* Program, and combines the rules governing IRS *e-file* .

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 Income Tax Regulations provide 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 such conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.04 Section 6011(e)(1) of the Internal Revenue Code (the Code) gives specific authority for the Service and the Treasury Department to "prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form." On January 12, 2005, the Service and the Treasury Department published in the Federal Register (T.D. 9175, 2005-1 C.B. 665 [70 FR 2012-01]) temporary regulations mandating the electronic filing of certain Forms 1120, 1120S, 990 and 990-PF under sections 301.6011-5T, 301.6037-2T, and 301.6033-4T. On November 12, 1999, the Service and the Treasury Department also published in the Federal Register (T.D. 8843, 1999-2 C.B. 590 [64 FR 61502]) final regulations mandating the electronic filing of certain Forms 1065 under section 301.6011-3.

.05 This revenue procedure combines the rules governing IRS *e-file* including the rules governing electronic filing of:

- (1) Form 56, *Notice Concerning Fiduciary Relationship*;
- (2) Form 720, *Quarterly Federal Excise Tax Return*;
- (3) Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*;
- (4) Form 941, *Employer's QUARTERLY Federal Tax Return*;
- (5) Form 944, *Employer's ANNUAL Federal Tax Return*;
- (6) Form 990, *Return of Organization Exempt From Income Tax*;
- (7) Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*;
- (8) Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation*;
- (9) Form 1040 and 1040A, *U.S. Individual Income Tax Return*, and Form 1040EZ, *Income Tax Return for Single and Joint Filers With No Dependents*;
- (10) Form 1041, *U.S. Income Tax Return for Estates and Trusts*;
- (11) Form 1065, *U.S. Return of Partnership Income*;
- (12) Form 1120, *U.S. Corporation Income Tax Return*;
- (13) Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*; and
- (14) Form 1120S, *U.S. Income Tax Return for an S Corporation*;
- (15) Form 2290, *Heavy Highway Vehicle Use Tax Return*;
- (16) Form 2350, *Application for Extension of Time To File U.S. Income Tax Return*;
- (17) Form 2688, *Application for Additional Extension of Time To File U.S. Individual Income Tax Return*;

- (18) Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*;
- (19) Form 7004, *Application for Automatic 6-Month Extension of Time To File Certain Business Income Tax, Information, and Other Returns*;
- (20) Form 8849, *Claim for Refund of Excise Taxes*;
- (21) Form 8868, *Application for Extension of Time To File an Exempt Organization Return*;
- (22) Form 9465, *Installment Agreement Request*; and
- (23) Any successor forms to the forms listed above, and any future forms or returns that may be filed by Authorized IRS *e-file* Providers.

.06 This revenue procedure does not cover procedures governing electronic filing of Form 1040NR, *U.S. Nonresident Alien Income Tax Return*. For procedures governing the electronic filing of Form 1040NR, see Rev. Proc. 2000-24, 2000-1 C.B. 1133.

.07 This revenue procedure also does not cover providers of information returns that are filed under the FIRE (Filing Information Returns Electronically) Program. See Publication 1220, *Specifications for Filing Forms 1098, 1099, 5498 and W2-G Electronically or Magnetically*. The information returns not covered by this revenue procedure include:

- (1) Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*;
- (2) Form 1098 series;
- (3) Form 1099 series;
- (4) Form 5498, *IRA Contribution Information*;
- (5) Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*; and
- (6) Form W-2G, *Certain Gambling Winnings*.

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

.09 Rev. Proc. 2005-60, 2005-2 C.B. 449, is revised by adding a new section 9 that provides that the IRS may deny an application to participate in IRS *e-file* or revoke an Authorized IRS *e-file* Provider's participation in IRS *e-file* if the firm, a Principal, or Responsible Official has been enjoined from filing returns because of a Federal or State court order or injunction or other legal action that would prevent participation in the program. In such cases the denied applicant or *e-file* provider will not be entitled to seek administrative review of the denial under the procedures set out in this revenue procedure.

SECTION 3. DEFINITIONS

.01 Authorized IRS *e-file* Provider. A participant in IRS *e-file* is referred to as an "Authorized IRS *e-file* Provider." The five categories of Authorized IRS *e-file* Providers are:

- (1) Electronic Return Originator. An Electronic Return Originator (ERO) originates the electronic submission of returns.
- (2) Intermediate Service Provider. An Intermediate Service Provider receives tax return information from an ERO (or from a taxpayer or tax-exempt organization that files electronically using a personal computer, modem or the Internet, and commercial tax preparation software), processes the return information, and either forwards the information to a Transmitter, or sends the information back to the ERO (or taxpayer or tax-exempt organization).
- (3) Software Developer. A Software Developer develops software for the purposes of (a) formatting electronic return information according to publications issued by the Service that set forth electronic return file specifications and record layouts for tax returns; and/or (b) transmitting electronic tax return information directly to the Service.
- (4) Transmitter. A Transmitter transmits electronic return information directly to the Service.
- (5) Reporting Agent. A Reporting Agent is an accounting service, franchiser, bank, service bureau, or other entity that complies with Rev. Proc. 2007-38, 2007-25 I.R.B. 1442, and is authorized to perform one or more of the acts listed in Rev. Proc. 2007-38 on behalf of a taxpayer.

The five categories of Authorized IRS *e-file* Providers 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.

.02 Responsible Official. 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.

.03 Principal. The Principal for a business or organization includes the following:

- (1) Sole Proprietorship. The sole proprietor is the Principal for a sole proprietorship.
- (2) Partnership. Each partner who has a 5 percent or more interest in a partnership is a Principal. If no partner has at least a 5 percent or more interest in the partnership, the Principal is an individual authorized to act for the partnership in legal and/or tax matters.
- (3) Corporation. The President, Vice-President, Secretary, and Treasurer are each a Principal of the corporation.
- (4) Other. The Principal for an entity that is not a sole proprietorship, partnership, or corporation is an individual authorized to act for the entity in legal and/or tax matters.

SECTION 4. ACCEPTANCE TO PARTICIPATE IN THE IRS *e-file* PROGRAM

.01 Sole proprietors, businesses, and organizations that wish to become an Authorized IRS *e-file* Provider 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, *IRS e-file Application and Participation*.

.03 The circumstances under which the Service may deny participation in the IRS *e-file* Program are also included in Publication 3112. An applicant who is denied participation may seek administrative review of the denial except as provided for in section 8 of this revenue procedure.

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

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 IRS *e-file*. 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 Filers of Individual Income Tax Returns*;
- (5) Publication 1437, *Procedures for the 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts*;
- (6) Publication 1438, *File Specifications, Validation Criteria and Record Layouts for the Form 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts*;
- (7) Publication 1438-A, *(Supplement) for the 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts*;
- (8) Publication 1474, *Technical Specifications Guide For Reporting Agent Authorization and Federal Tax Depositors*;
- (9) Publication 1524, *Procedures for 1065 e-file Program, U.S. Return of Partnership Income*;
- (10) Publication 1525, *File Specifications, Validation Criteria and Record Layouts for the 1065 e-file Program, U.S. Return of Partnership Income*;
- (11) Publication 1855, *Technical Specifications Guide for the Electronic Filing of Form 941, Employer's Quarterly Federal Tax Return*;
- (12) Publication 3112, *IRS e-file Application and Participation*;
- (13) Publication 3416, *1065 e-file Program, U.S. Return of Partnership Income (Publication 1525 Supplement)*;
- (14) Publication 3715, *Technical Specifications Guide for the Electronic Filing of Form 940, Employer's Federal Unemployment (FUTA) Tax Return*;
- (15) Publication 3823, *Employment Tax e-file System Implementation and User Guide*;
- (16) Publication 4162, *Modernized e-file Test Package for Forms 1120/1120S*;
- (17) Publication 4163, *Modernized e-file (MeF) Information for Authorized IRS e-file Providers of Forms 1120/1120S*;
- (18) Publication 4164, *Modernized e-file (MeF) Guide for Software Developers and Transmitters*;
- (19) Publication 4206, *Information for Authorized IRS e-file Providers of Exempt Organization Filings*; and
- (20) Postings to the IRS web site at: <http://www.irs.gov> on the Internet, and published and future guidance in the Internal Revenue Bulletin and the Federal Register.

.02 The publications and notices listed in section 5.01 supplement this revenue procedure. A violation of any provision of these publications and notices is considered a violation of this revenue procedure and may subject an Authorized IRS *e-file* Provider to the sanctions provided in section 7 of this revenue procedure.

.03 The security of taxpayer accounts and personal information is a top priority for the Service. It is the responsibility of each Authorized IRS *e-file* Provider to have security systems in place to prevent unauthorized access to taxpayer accounts and personal information by third parties. The Gramm-Leach-Bliley Act, codified at 15 U.S.C. §§ 6801-6827, includes rules applicable to Authorized IRS *e-file* Providers that are designed to ensure the security and privacy of taxpayer information. Violation of the provisions of the Gramm-Leach-Bliley Act and the implementing rules and regulations promulgated by the Federal Trade Commission, or violations of the non-disclosure rules contained in sections 6713 or 7216 or the regulations promulgated thereunder, are considered violations of this revenue procedure and may subject an Authorized IRS *e-file* Provider to penalties as set forth in section 6 of this revenue procedure or sanctions provided in section 7 of this revenue procedure.

.04 In addition to the responsibilities defined in 5.01, 5.02, and 5.03 above, additional Authorized IRS *e-file* Providers responsibilities may be defined in statutes and regulations, revenue procedures, publications, postings to the IRS web site at: <http://www.irs.gov> on the Internet, and published and future guidance in the Internal Revenue Bulletin and the Federal Register.

SECTION 6. PENALTIES

.01 Penalties for Disclosure or Use of Information.

(1) An Authorized IRS *e-file* Provider is a tax return preparer under the definition of section 7216(a) of the Code. Tax return preparers are subject to criminal penalties for unauthorized disclosure or use of tax return information. See section 7216 (a). In addition, section 6713 establishes civil penalties for unauthorized disclosure or use of income tax return information by tax return preparers.

(2) In certain situations, under section 7216(b)(2), 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 imposed against an individual or firm meeting the definition of a tax return preparer under section 7701(a)(36) and section 301.7701-15. Preparer penalties that may be imposed under appropriate circumstances include, but are not limited to, those set forth in sections 6694, 6695, and 6713. **Cautions: The regulations cited in this section 6.02 do not reflect amendments to the definition of tax return preparer made by the Small Business and Work Opportunity Act of 2007.**

(2) Under section 301.7701-15(d)(1), Authorized IRS *e-file* Providers are not 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 tax return information in a nonsubstantive way, this alteration will be considered to come under the "mechanical assistance" exception described in section 301.7701-15(d)(1), and will not cause an Authorized IRS *e-file* Provider to become a tax return preparer. 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 tax return information in a way that does not come under the "mechanical assistance" exception, such Authorized IRS *e-file* Provider may be held liable for tax return preparer penalties.

.03 Other Penalties. In addition to the above specified provisions, the Service may impose all appropriate preparer, non-preparer, and disclosure penalties against an Authorized IRS *e-file* Provider as warranted under the circumstances.

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

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

.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 severity of the infraction. Publication 3112 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 IRS *e-file* (see section 4.03 of this revenue procedure) has the right to an administrative review (except as provided in Section 9, below). 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 3112 describes the procedures regarding administrative review of a denial of participation in IRS *e-file* and any sanction imposed by the Service.

SECTION 9. DENIAL OF APPLICATION OR REVOCATION OF AN AUTHORIZED IRS *e-file* PROVIDER'S PARTICIPATION IN IRS *e-file* DUE TO COURT INJUNCTION OR OTHER LEGAL ACTION

.01 The Service may deny an Application to participate in IRS *e-file* or revoke an Authorized IRS *e-file* Provider's participation in IRS *e-file* if the Provider, a Principal, or Responsible Official is enjoined from filing returns because of a Federal or State court injunction.

.02 The Service may deny an application or revoke an Authorized IRS *e-file* Provider's participation in IRS *e-file* if the Provider, Principal, or Responsible Official is prohibited from filing returns by any Federal or State legal action that would prohibit them from participation. A type of such legal action would be a Federal Executive Order such as Executive Order 13224 (September 23, 2001), which involves prohibitions directed at terrorist individuals or organizations. An organization described in this Executive Order would not be given IRS *e-file* privileges.

.03 If an Authorized IRS *e-file* Provider's participation in IRS *e-file* is revoked under this section, the Authorized IRS *e-file* Provider is not entitled to the Administrative Review Process set forth in Section 8 and cannot administratively appeal a revocation of its participation in IRS *e-file*. Nor can an applicant appeal its denial to participate in the program. If, however, the injunction or other legal action expires or a reviewing court reverses it, the enjoined Authorized IRS *e-file* Provider or denied applicant may reapply to participate in IRS *e-file* after the injunction or other legal action expires or the appellate decision reversing the injunction becomes final.

SECTION 10. 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" or "Memorandum of Agreement." 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.

.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 11. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2005-60, 2005-2 C.B. 449, is superseded.

SECTION 12. EFFECTIVE DATE

This revenue procedure is effective June 25, 2007.

SECTION 13. INTERNAL REVENUE SERVICE OFFICE CONTACT

All questions regarding this revenue procedure should be directed to the Service. The telephone number for this purpose is (202) 283-0261 (not a toll-free number).

SECTION 14. DRAFTING INFORMATION

The principal author of this revenue procedure is Michael E. Hara of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue procedure, contact Michael E. Hara at (202) 622-4910 (not a toll-free call).

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