

**Office of Chief Counsel
Internal Revenue Service**

memorandum

CC:PA:APJP:B02:MWMendelsohn
PRENO-131631-04

date: September 10, 2004

to: Jimmie L. Smith
Director, Submission Processing
W:CAS:SP

from: Charles A. Hall *Charles A. Hall*
Senior Technician Reviewer
Attn: Jerrie Billingsley, Carolyn Martin & Deborah L. Gallagher
CC:PA:APJP:B02

subject: Whole Dollar Reporting

Your office has requested information on the requirement that taxpayers report amounts in whole dollars, and specifically requested we address the issues set forth below.

ISSUES

1. Can the Service require a taxpayer who wishes to report the fractional part of a dollar and wishes to file a paper individual income tax return (Form 1040 series) to use only the Form 1040, instead of the Form 1040-A or Form 1040-EZ?
2. If a taxpayer chooses to file a return electronically (including tele-file), can the Service require that the taxpayer report only in whole dollars if the taxpayer has the option to report the fractional part of a dollar on a paper return?
3. If the Service requires a taxpayer to file a return electronically and there is no option of filing a paper return, can the Service require the taxpayer to report in whole dollars?

CONCLUSIONS

1. Yes. The Service may require a taxpayer to use Form 1040 instead of Form 1040-A or Form 1040-EZ if the taxpayer wishes to report the fractional part of a dollar and wishes to file the return on paper.
2. Yes. The Service may require taxpayers filing electronically to report using whole dollars so long as the taxpayer has another option to file reporting the fractional part of a dollar.

3. No. The Service may not prohibit a taxpayer from reporting in both dollars and cents, if the taxpayer has no other reporting option. Section 6102(b) and the accompanying regulations provide that that a taxpayer may elect not to use whole dollar amounts by reporting all amounts in full, including cents. Treas. Reg. § 301.6102-1(b)(1).

FACTS

As the Service's technological capabilities increase, more and more returns, statements and other documents (collectively, "Forms") are made available to the public for electronic filing. In many cases, taxpayers now have the option to file either electronically or on paper. Currently, taxpayers can file their individual income tax returns (Form 1040 series) electronically. In addition, corporate taxpayers, in some circumstances, can file their Form 1120, U.S. Corporation Income Tax Return. Employers may also file their quarterly employment tax returns (Forms 940 and 941) electronically.

All of these Forms submitted to the Service electronically must report money amounts in whole dollars although the fractional part of a dollar may be reported on a paper version of the Form. Thus, whether a taxpayer creates his/her own software, purchases commercially available software or utilizes an authorized e-file provider, the electronically submitted Form only reports in whole dollars.

The Service provides, by annual revenue procedure, instructions to our outside partners (authorized e-file providers e.g., Intuit, Jackson Hewitt, and H & R Block) on how to program their software. These instructions include directions to enter whole dollar amounts, without cents. Thus, a taxpayer who wants to report the fractional part of a dollar and uses electronic filing is precluded from doing so because the software either automatically rounds the amounts up or down, as appropriate, or otherwise does not accept the fractional part of a dollar at all. In addition, our outside partners have indicated that they would be unwilling to change their programs to allow the inputting of the fractional part of a dollar. Finally, even if our outside partners reprogrammed their software to accept the fractional part of a dollar, the Service's computer systems are, presently, not capable of accepting an electronic return reporting the fractional part of a dollar.

Furthermore, the Service requires that a number of Forms must be filed electronically, with no paper filing option, depending upon the circumstances. Treas. Reg. § 301.6011-2(b) explains that Forms 1042-S, 1098, 1098-G, 1098-T, the 1099 series, 5498, 8027, and W-2G must be filed electronically on magnetic media. Also, other forms specified by revenue procedures or regulations must also be filed electronically. Treas. Reg. § 301.6011-2(b)(1). In addition, partnerships with more than 100 partners are required to file their Form 1065, U.S. Return of Partnership Income, on magnetic media. Treas. Reg. § 301.6011-3. All of the forms must report money amounts in whole dollars.

LAW AND ANALYSIS

Section 6102(a) of the Internal Revenue Code authorizes the Secretary to provide, in the case of amounts required to be shown on a form prescribed for any internal revenue return, statement, or other document, that the fractional part of a dollar be disregarded entirely or disregarded unless it amounts to one-half dollar or more in which case the amount should be increased by \$1.00. Section 6102(b), however, provides that the person making a return, statement or other document shall under regulations prescribed by the Secretary, be allowed to report the fractional part of a dollar, notwithstanding section 6102(a). The regulations provide that where any internal revenue forms or instructions provide that whole dollar amounts shall be reported, any person making a return, statement or other document may elect not to use whole dollar amounts by reporting on the form all amounts in full, including cents. Treas. Reg. § 301.6102-1(b)(1).

Section 2001 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206, § 2001, 112 Stat. 685, 722 (1998), states that it is the policy of Congress that paperless filing should be the preferred and most convenient means to file Forms. RRA 98 § 2001(a)(1). While this section has not been incorporated as a provision of the Internal Revenue Code, off-code provisions in RRA 98 still have the force of law. See Smith v. Commissioner, 114 T.C. 489, 491 (2000) (citing United States Nat'l Bank v. Independent Ins. Agents of America, Inc., 508 U.S. 439, 448 (1993)). Section 2001 further provides that the Service's goal should be to have eighty percent of all returns filed electronically by 2007. RRA 98 § 2001(a)(2). In enacting this provision, Congress intended for the Secretary to eliminate barriers and provide incentives to increase taxpayer use of electronic filing. See H.R. Conf. Rep. No. 105-599 at 234 (1998).

Issue 1

The regulations under section 6102(b) could be read to prohibit the Service from mandating that a taxpayer report solely in whole dollars on every form filed with the Service. The better interpretation of this provision, however, is that the Service may require whole dollar reporting on certain forms within a series (e.g., the Form 1040 series) as long as a taxpayer is allowed to report the fractional part of a dollar on at least one form within the series. This is because the various forms in the Form 1040 series are all individual income tax returns required by section 6012(a)(1) and it is on a "return" not a form that a taxpayer must be allowed to report the fractional part of a dollar under section 6102(b). Having different requirements for different forms within a series is similar to other circumstances in which the Service prohibits a taxpayer from utilizing a Form 1040-A, U.S. Individual Income Tax Return, or Form 1040-EZ, Income Tax Return for Single Filers and Joint Filers With No Dependents, unless the taxpayer meets certain qualifications or reports the necessary information in a particular manner. For example, the Form 1040-EZ may only be used by taxpayers who do not itemize

their deductions. This prohibition does not preclude a taxpayer from itemizing deductions; it merely prohibits the taxpayer from reporting using a Form 1040-EZ. Similarly, taxpayers wishing to use a Form 1040-A may only do so if they meet certain qualifications, namely that their income is less than \$50,000. Again, the requirement does not prohibit a taxpayer from reporting, but restricts that method of reporting to certain taxpayers.

Applying the same logic to the fractional part of a dollar, so long as the taxpayer has an option to report the fractional part of a dollar, the Service is not prohibited from mandating that taxpayers using certain Forms report in whole dollars only. Under your proposal, in the case of the Form 1040-A and Form 1040-EZ, a taxpayer wishing to report the fractional part of a dollar will have the option to file a Form 1040, U.S. Individual Income Tax Return. Thus, the Service can mandate that taxpayers filing Forms 1040-A and 1040-EZ use whole dollars only. This satisfies section 6102(b) because a taxpayer filing an individual income tax return required under section 6012(a)(1) is allowed to report the fractional part of a dollar, although the taxpayer's options for using a particular version of the income tax return are limited.

Issue 2

While a literal reading of section 6102(b) and Treas. Reg. § 301.6102-1(b) seems to prohibit the Service from requiring taxpayers filing electronically to report in whole dollar amounts only (because there is no electronic option to report the fractional part of a dollar), taken together with section 2001 of RRA 98, it does not. Section 6102(b) provides that taxpayers may elect not to report in whole dollars, if they choose. Section 2001 of RRA 98 requires the Service to promote electronic filing such that eighty percent of returns are electronically filed by 2007. If we read into section 6102(b) a requirement that every electronically filed Form accepted by the Service must accept the fractional part of a dollar, the Congressional intent would be frustrated. We do not believe the statute should be so construed.

As previously stated, in enacting section 2001, Congress intended electronic filing to be the preferred method of filing. Requiring the Service to accept the fractional part of a dollar on electronically submitted forms frustrates that intent because it increases the costs affiliated with electronic filing, increases the time of transmission, requires additional storage space on the system (thereby increasing costs), and impedes electronic filing in general. Further, our electronic filing partners would have to reprogram their software and their systems (and have indicated that they are unwilling to do so), resulting in a further hurdle to implementing congressional intent.

Accordingly, reading these two statutory provisions in harmony, we believe that as long as a taxpayer has an option to file a form reporting the fractional part of a dollar on paper, the Service is compliant with section 6102(b) and section 2001 of RRA 98. Thus, the fact that the Service does not accept electronically filed returns reporting the

fractional part of a dollar does not violate section 6102(b), so long as the taxpayer has another option to file the return and report the fractional part of the dollar.

Issue 3

If the Service requires a taxpayer to file a return, statement or other document electronically, the Service may not prohibit the taxpayer from reporting in both dollars and cents, because the taxpayer has no other reporting option. Section 6102(b) and the accompanying regulations provide that that a taxpayer may elect not to use whole dollar amounts by reporting all amounts in full, including cents. Treas. Reg. § 301.6102-1(b)(1). Because section 6102 does not provide the Service with the option of denying a taxpayer a section 6102(b) election, the Service must provide an option to the taxpayer to report the fractional part of a dollar.

Unlike electronic filing of individual income tax returns, the current regulations do not provide for paper filing of certain forms. Treas. Reg. § 301.6011-2(b) provides that Forms 1042-S, 1098, 1098-G, 1098-T, the 1099 series, 5498, 8027, and W-2G must be filed electronically on magnetic media.¹ In addition, other forms specified by revenue procedure or regulations must also be filed electronically. Treas. Reg. § 301.6011-2(b)(1). Also, partnerships with more than 100 partners must file their Form 1065, U.S. Return of Partnership Income, on magnetic media. Treas. Reg. § 301.6011-3. Thus, by not accepting electronic returns containing the fractional part of a dollar and mandating that the returns must be filed electronically, the Service is denying the taxpayer the right to elect to report the fractional part of a dollar, as provided for in section 6102(b) and Treas. Reg. § 301.6102-1(b).

In this case, we do not believe that the Service can modify the regulations under section 6102 to prohibit the taxpayer from electing to report the fractional part of a dollar. This is so even though section 6102(b) provides the Service with authority to prescribe regulations. These regulations could not take away a taxpayer's right to report the fractional part of a dollar because the Code expressly allows the taxpayer the option to elect to report the fractional part of a dollar.

Based on the foregoing, it is not permissible to require taxpayers to report in whole dollars without the option to report the fractional part of a dollar. Thus, in the case of a form, statement or other document required to be filed by electronic media, the Service must allow the taxpayer to report, in some manner, the fractional part of a dollar. To become compliant with the statute you may want to investigate the feasibility of allowing a taxpayer who wishes to report the fractional part of a dollar on one of these forms to report on paper. If allowing a paper version of these forms were possible, then the

¹ Treas. Reg. § 301.6011-2(c) requires that if a taxpayer has to file more than 250 of the forms they must do so by magnetic media. There is a group investigating whether we should modify the regulations to reduce that number to 50.

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Service could modify the regulations under section 6011. It is those regulations that currently require electronic filing of certain forms. If the Service could modify those regulations and the Service and its outside partners were equipped (or could become so) to handle the paper filing of those returns, then the Service would be in compliance with section 6102.



If you have any questions or need further information, please contact Marcy Mendelsohn at 202-622-4940.