



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

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SMALL BUSINESS/SELF-EMPLOYED

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MEMORANDUM FOR EXCISE TERRITORY MANAGERS AND EXCISE TAX GROUP
MANAGERS, SMALL BUSINESS/SELF-EMPLOYED

FROM: Holly L. McCann/s/Holly L. McCann
Chief, Excise Tax Program

SUBJECT: Interim Guidance relating to IRC 6020(b) Certification
Procedures for Non Filed Excise Returns

The purpose of this memorandum is to discuss the IRC 6020(b) certification procedures required to impose the section 6651(a)(2), failure to pay tax penalty, when a taxpayer fails to file an excise tax return. Please ensure this information is distributed to all affected employees within your organization.

In situations where a taxpayer fails to file an excise tax return and it is determined that the application of the IRC 6651(a)(2) failure to pay penalty is warranted, the procedures set forth in IRM 20.1.2.2.10.2 must be followed. Any prior guidance to the contrary is revoked.

IRC 6651(g)(2) provides that for purposes of IRC 6651(a)(2), a return prepared by the Service under IRC 6020(b) is treated as a return filed by the taxpayer. IRC 6020(b) return requirements are met in a case where the Service has processed, as a return, documents that (1) identify the taxpayer; (2) provide a basis for the taxpayer's tax computation; and (3) are signed by a Service employee delegated the authority to sign section 6020(b) returns. Instructions for application of IRC 6020(b) are listed below and found in IRM 20.1.2.2.10.2(1)(b).

- Complete and attach Form 13496, *IRC Section 6020(b) Certification*, to the source document for assessment of tax under IRC 6020(b).
- Attach the report summarizing Excise Examination changes or equivalent report of adjustments.
- Attach Form 886-A, *Explanation of Items*, appropriate issue lead sheet or similar form.

The contents of this memo will be incorporated into IRM 4.24.9.3 before 11-03-2012.

If you have any questions, please contact Frank A. Falvo, Excise Tax Policy Manager, at frank.a.falvo@irs.gov.

CC: www.irs.gov