

## IRM PROCEDURAL UPDATE

**DATE: 09/01/2020**

**NUMBER: sbse-20-0920-0963**

**SUBJECT: Electronically Filed Returns**

**AFFECTED IRM(S)/SUBSECTION(S): 20.1.2.2.1.2**

**CHANGE(S):**

### **IRM 20.1.2.2.1.2 Added new subsection to include electronically filed returns.**

Timely Filing Consideration for Electronic returns

1. CFR 301.7502(d) provides that IRC 7502 also applies to timely electronic postmarks for e-filed returns. All timely conditions are considered met if the return (1) was transmitted via an authorized Electronic Return Transmitter, (2) with a timely electronic postmark; and (3) received by IRS in processable form.
2. As defined in Rev. Proc. 2000-31, an authorized Electronic Return Transmitter (ERT) is the entity that transmits return information from the return originator to the IRS. Generally, an electronic return is prepared with preparation software and then converted to processable format by another entity that originates the return and transmits to the IRS. The following entities may transmit returns to the IRS:
  - a. An Electronic Return Transmitter (ERT). These are the entities that provide or transmit the electronic return information directly to the IRS.
  - b. An Electronic Return Originator (ERO) originates or creates the electronic submission of returns it either prepares or collects from taxpayers who want to e-file their returns. An ERO originates the electronic submission of a return after the taxpayer authorizes the filing of the return via IRS e file. The ERO must have either prepared the return or collected it from a taxpayer. An ERO originates the electronic submission by electronically sending the return to a Transmitter that transmits the return to the IRS; directly transmitting the return to the IRS (this would make the ERO an ERT as well) or providing a return to an Intermediate Service Provider for processing prior to transmission to the IRS.
  - c. An Intermediate Service Provider (ISP) receives tax information from an Electronic Return Originator (ERO) (or from a taxpayer who files electronically using a personal computer 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 (for Online Filing).

**NOTE:** The categories above represent examples of authorized IRS e-file providers and are not mutually exclusive. For example, an ERO can, at the same time, be an ERT or ISP depending on the functions performed.

3. Electronic postmark is a record of the date and time that an authorized ERT receives the transmission of a taxpayer's electronically filed return on its host system in the ERT's time zone.
  - a. A return filed electronically with an ERT is deemed to be filed with the IRS on the date of the electronic postmark.
  - b. If the electronically filed return is rejected by the IRS's e-file system, but the electronic postmark is timely, the return will be considered timely if received by the IRS after the due date as long as the return is either (1) re-transmitted electronically, or (2) physically mailed to the Service in complete, processable form, after initial notification of rejections.

**NOTE:** Please see Pub 1345 for more information regarding electronic return rejection and procedure for resubmission of a rejected return.

**EXCEPTION:** If the return as originally received was invalid, the electronic postmark is irrelevant if the return was rejected for any reason that would have also made a paper return unprocessable. The requirement for filing the return in question, penalties for filing late, and the ASED update need not be determined based on an assumption of timely filing

4. For purposes of IRC 7502, the postmark of an electronic return is only valid if the postmark represents when the return is sent to an ERT, (or ERO/ISP when they are acting as an ERT). Because an electronic postmark is only created when an ERT receives an electronic return; any postmark relating to the time an ERO/ISP receives tax information, or originates a return, alone will not meet the electronic postmark requirements under IRC 7502.

**NOTE:** Authorized e-file providers are issued an Electronic Filing Identification Number (EFIN). Official communication between the taxpayer and the authorized e-file provider should include the EFIN under which the return was received. (Some e-file providers are issued more than one EFIN, depending on the number of returns transmitted annually.)

**NOTE:** Documentation, such as printed e-mails or other official communications from the authorized e-file provider, should be validated to the greatest extent possible on IRS systems using the EFIN, ECN, or any other identifying information provided in the documentation.

**EXAMPLE:** Taxpayer prepared a processable return and submitted it to an authorized ERT on July 14, 2020 (due date extended due to COVID-19), and an electronic receipt (generally received by email) is provided from the ERT

to the taxpayer verifying receipt. Subsequently the ERT experiences problems that prevent the transmission of the return to the IRS until August 1, 2020, which results in taxpayer receiving a Failure to File (FTF) penalty. The return is to be considered timely if the taxpayer provides a receipt from the ERT that verifies the timely receipt of the return and if there is no record that the return was rejected because it was incomplete or not processable as submitted. Any assessed FTF penalty should be removed.

**EXAMPLE:** Taxpayer prepared and submitted a processable return to an authorized ERT on April 14, 2019 and an electronic receipt is provided to the taxpayer. The return is rejected because the SSN of the dependent was incorrect. The taxpayer decides to print the return and mail it in. The return is received May 1, 2019, which results in taxpayer receiving a FTF penalty. The taxpayer provides a receipt from an authorized ERT showing the return was originally submitted on April 14, 2019. The return is considered timely. Any erroneously assessed FTF penalty should be removed.

**EXAMPLE:** Taxpayer had their tax return prepared by commercial preparation software on April 13, 2019 for a Form 1040 with a return due date of April 15, 2019. The software uses an ERO to originate the return information, but the ERO uses a separate ERT afterwards to transmit the return to the IRS. The commercial software transmits the tax return information to the ERO on April 14, 2019 with receipt the software made the transmission. However, the ERO identifies errors and sends the return to the commercial software for correction. The taxpayer does not make the correction and does not submit the information until April 23, 2019, at which time the ERO then originates and sends the return to the ERT. The return is not considered timely because the electronic postmark is only for the date the ERO transmits to the final ERT, which in this case is April 23, 2019, after the return due date.