

Part III – Administrative, Procedural, and Miscellaneous

Electronic Filing Administrative Exemptions, Waivers, And Rejections; Obsolete Notice 2010-13

Notice 2023-60

I. PURPOSE

This notice addresses the availability of administrative exemptions from the requirement to file certain returns and other documents in electronic form. This notice also addresses the availability of information about the procedure to request a waiver of the requirement to file electronically Forms 1120, 1120-S, and 1120-F (Forms 1120), and information about failed attempts to file electronically Forms 1120 using Internal Revenue Service (IRS) filing systems. In addition, this notice obsoletes Notice 2010-13, 2010-4 I.R.B. 327 (January 25, 2010), *Form 1120*, *Form 1120-F*, *Form 1120S*, *Form 990*, and *Form 990-PF Electronic Filing Waiver Request Procedures*.

II. BACKGROUND

Section 2301 of the Taxpayer First Act (TFA), Public Law 116-25, 133 Stat. 981 (2019), amended § 6011(e) of the Internal Revenue Code (Code)¹ by amending § 6011(e)(2) and adding § 6011(e)(5) to the Code to authorize the Secretary of the Treasury or her delegate (Secretary) to prescribe regulations that decrease, in accordance with the TFA, the number of returns a filer may file without being required to file returns and other documents electronically. Under this authority, the Secretary may require any person who must file at least 10 returns during a calendar year to file the returns electronically (electronic filing requirement). Prior to the TFA, the Secretary was authorized to apply the electronic filing requirement only for persons required to file at least 250 returns during the calendar year. In addition, § 3101 of the TFA amended §§ 6011 and 6033 with respect to certain returns required to be filed by tax-exempt organizations by requiring that all such returns be filed in electronic form.

On February 23, 2023, the Department of the Treasury and the IRS published T.D. 9972, *Electronic-Filing Requirements for Specified Returns and Other Documents*, which contained final regulations providing updated electronic filing requirements generally applicable beginning January 1, 2024 (Updated Electronic Filing Regulations).

¹ Unless otherwise specified, all “section” or “§” references are to sections of the Code or to the Procedure and Administration Regulations (26 CFR part 301).

In addition, as stated in section III of this notice, the Updated Electronic Filing Regulations allow certain waivers of and administrative exemptions from the electronic filing requirement. Regulations mandating electronic filing that are currently applicable allow for waivers in certain circumstances prior to January 1, 2024.

Notice 2010-13, which this notice obsoletes, provided the procedure for corporations, electing small business corporations, and organizations required to file returns under § 6033 to request a waiver of the requirement to file electronically Form 1120, *U.S. Corporation Income Tax Return*; Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*; Form 1120-S, *U.S. Income Tax Return for an S Corporation*; Form 990, *Return of Organization Exempt From Income Tax*; Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation*; and returns, amended returns, and superseding returns in the Form 1120 series and Form 990 series when required by regulations and IRS publications.

III. ADMINISTRATIVE EXEMPTIONS FROM AND WAIVERS OF THE REQUIREMENTS TO FILE IN ELECTRONIC FORM MAY BE AVAILABLE

The Updated Electronic Filing Regulations provide for certain administrative exemptions from the electronic filing requirement. Sections 301.6011-2 (general electronic filing requirement), 301.6011-3 (for partnership returns), 301.6011-5 (for corporate income tax returns), and 301.6037-2 (for returns of electing small business corporations), as amended by the Updated Electronic Filing Regulations, provide for an administrative exemption from the electronic filing requirement for filers of the returns or other documents described in those regulations for whom using the technology required to file electronically conflicts with their religious beliefs (religious exemption). These filers should notify the IRS that they qualify for a religious exemption in advance of filing returns and other documents by filing a Form 8508, *Application for Waiver from Electronic Filing of Information Returns*, in accordance with the form's instructions. After filing the Form 8508, filers who qualify for a religious exemption should file returns and other documents in paper form, in accordance with paper filing requirements provided by applicable IRS revenue procedures, publications, forms, instructions, or other guidance. The religious exemption is available both before and after the applicability date of the amendments to §§ 301.6011-2, 301.6011-3, 301.6011-5, and 301.6037-2.

In addition, certain provisions of currently applicable regulations and the Updated Electronic Filing Regulations authorize the Commissioner of Internal Revenue (Commissioner) to grant certain waivers of the requirement to file electronically certain returns and other documents in cases of undue hardship (hardship waiver). The procedures for seeking a hardship waiver (if applicable) of the electronic filing requirement may be found in applicable IRS revenue procedures, publications, forms, instructions, or other guidance, including postings to the *IRS.gov* website.

Finally, certain provisions of the Updated Electronic Filing Regulations authorize the Commissioner to provide other administrative exemptions from the electronic filing

requirement to promote effective and efficient tax administration. If the Commissioner provides other administrative exemptions, a submission claiming the administrative exemption must be made in accordance with applicable IRS revenue procedures, publications, forms, instructions, or other guidance, including postings to the *IRS.gov* website.

IV. NOTICE 2010-13 IS OBSOLETE

The procedure to request a waiver of the requirement to file electronically Forms 1120, 1120-S, and 1120-F is being made available in applicable IRS revenue procedures, publications, forms, instructions, or other guidance, including postings to the *IRS.gov* website. Updates to the procedure will be made available in the same way. Additionally, because § 6033, as amended by § 3101 of the TFA, requires any organization with an obligation to file a return under § 6033 to file the return in electronic form, the procedure to request a waiver of the electronic filing requirement as described in Notice 2010-13 no longer applies to Form 990 and Form 990-PF series returns. Finally, Notice 2010-13 provides instructions regarding timely filing of Form 1120, Form 1120-S, Form 1120-F, Form 990, and Form 990-PF on the IRS's Modernized e-File (MeF) system after attempts to file electronically on the MeF system are rejected. Instructions regarding timely filing and for correcting returns that are rejected during attempts to file electronically using the IRS electronic filing systems may be found in IRS publications specific to each IRS electronic filing system; for example, Publication 4164, Modernized e-File (MeF) Guide for Software Developers and Transmitters, and Publication 5717, Information Returns Intake System (IRIS) Taxpayer Portal User Guide. For the foregoing reasons, this notice obsoletes Notice 2010-13 because it is no longer necessary.

V. EFFECT ON OTHER DOCUMENTS

Notice 2010-13 is obsoleted.

VI. CONTACT INFORMATION

The principal author of this notice is Carolyn M. Lee of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this notice, you may call (202) 317-6845 (not a toll-free call). For questions concerning electronically filing returns, contact the IRS e-Help Desk at (866) 255-0654 (toll-free) or (512) 416-7750 (not toll-free).