

26 CFR 601.602: *Tax forms and instructions.*

(Also Part 1, §§ 6001, 6302, 6651, 6655, 6656, 31.6302-1).

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SECTION 1. PURPOSE

This revenue procedure provides information about the Electronic Federal Tax Payment System (EFTPS) programs for Batch Providers and Bulk Providers (Providers). EFTPS is an electronic remittance processing system for making federal tax deposits (FTDs) and federal tax payments (FTPs). The Batch Provider and Bulk Provider programs are used by Providers for electronically submitting enrollments, FTDs, and FTPs on behalf of multiple taxpayers.

SECTION 2. BACKGROUND

.01 Section 6302(c) of the Internal Revenue Code provides that the Secretary of the Treasury (Secretary) may authorize Federal Reserve banks, and incorporated banks and other financial institutions that are depositories or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as the Secretary may prescribe. Section 6302(c) also provides that the Secretary shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and other financial institutions is to be treated as a payment of such tax to the Secretary. Beginning January 1, 2011, Treasury Decision 9507 requires that a taxpayer must deposit all depository taxes (such as employment tax, excise tax, and corporate income tax) electronically by electronic funds transfer (EFT). Paper coupons (*i.e.*, Forms 8109 and 8109-B, Federal Tax Deposit Coupon) can no longer be used to make deposits at a bank or other financial institution.

.02 Section 6302(h) requires the Secretary to establish an EFT system to collect FTDs. EFTPS is the EFT system developed by the Secretary to collect FTDs and FTPs. See § 31.6302-1(h)(4)(i) of the Employment Taxes and Collection of Income Tax at Source Regulations, and Rev. Proc. 97-33, 1997-2 C.B. 371.

.03 Some taxpayers are required by the regulations issued under § 6302(h) to make FTDs and FTPs using EFT. See § 31.6302-1(h)(2). Taxpayers not required to make FTDs using EFT may choose to do so voluntarily. Taxpayers also may choose to make FTPs using EFT.

Whenever a "Reporting Agent," as that term is defined in Rev. Proc. 2012-32, 2012-34 I.R.B. ____, or any successor published guidance, remits FTDs or FTPs on behalf of a taxpayer, the Reporting Agent must use EFTPS, regardless of whether the taxpayer is required to use EFTPS. As noted in Rev. Proc. 2012-32, 2012-34 I.R.B. ____, the Reporting Agent may also use the Federal Tax Application (FTA) system in remitting FTDs or FTPs on behalf of a taxpayer.

.04 All Providers using the Batch Provider or Bulk Provider programs must comply with this revenue procedure, and with the User Manual for EFTPS Batch Providers, or the Implementation Guide for EFTPS Bulk Providers, whichever applies.

.05 The two primary remittance methods in EFTPS are an Automated Clearing House (ACH)

debit entry and an ACH credit entry. Providers may also use an FTA transaction. These remittance methods are defined in section 3 and described in sections 8, 9, and 10 of this revenue procedure.

.06 Providers participating in EFTPS must ensure that taxpayers' funds are remitted on a timely basis. See § 31.6302-1(h)(8) for rules regarding when an FTD remitted by EFTPS is deemed made. For FTDs and FTPs remitted by EFTPS, see § 31.6302-1(h)(9) for rules regarding when the tax is deemed paid.

.07 If a taxpayer is a voluntary participant in EFTPS (that is, a participant not required by regulations or other guidance from the Internal Revenue Service (Service) to make an FTD by EFTPS) and the Provider is unable, for any reason, to make an FTD using EFTPS or chooses not to use EFTPS to make an FTD, the Provider may, to the extent permitted by regulations under § 6302, remit the deposit with the tax return to which the deposit relates.

.08 EFTPS does not change the computation of tax liability, interest or penalties, or FTD or FTP due dates.

SECTION 3. DEFINITIONS

.01 The definitions provided in this section will be used for the Batch Provider and Bulk Provider programs.

.02 *Administrative FRB Head Office Local Zone Time.* “Administrative FRB Head Office Local Zone Time” is the local zone time of the Administrative Federal Reserve Bank head office through which a financial institution, or its authorized correspondent bank, sends a Same-Day Payment.

.03 *Authorization.* An “Authorization” is an instrument used by a taxpayer to designate a Provider as the taxpayer's reporting agent for submitting enrollments and for making FTDs or FTPs. See Rev. Proc. 2012-32, 2012-34 I.R.B. ___ for additional detail on Authorizations.

.04 *Automated Clearing House (ACH).* “Automated Clearing House” is a funds transfer system, governed by the ACH Rules (the Operating Rules and the Operating Guidelines published by National Automated Clearing House Association (NACHA)) that provides for the interbank clearing of electronic entries for participating financial institutions.

.05 *ACH credit entry.* An “ACH credit entry” is a transaction in which a financial institution, upon instructions from a Provider, originates an FTD or FTP to the appropriate Treasury Department account through the ACH system. An ACH credit entry is a transfer of funds representing one FTD or FTP. There are no “bulk” ACH credit entries. See section 9 of this revenue procedure for information on an ACH credit entry.

.06 *ACH debit entry.* An “ACH debit entry” is a transaction in which the Financial Agent, upon instructions from a Provider, instructs the financial institution of the Provider or the taxpayer to withdraw funds from a designated account for an FTD or FTP and to route the FTD or FTP to the appropriate Treasury Department account through the ACH system. A single ACH debit entry is a transfer of funds representing one FTD or FTP. A bulk ACH debit entry (a remittance method available only in the Bulk Provider program) is a transfer of funds representing multiple FTDs or FTPs. See section 8 of this revenue procedure for information on an ACH debit entry.

.07 *Batch Provider.* A Batch Provider is a Provider that is registered under the Batch Provider program. A Batch Provider submits multiple electronic enrollment files at one time and uses a personal computer or telephone for making FTDs or FTPs.

.08 *Bulk Provider.* A Bulk Provider is a Provider that is registered under the Bulk Provider program. A Bulk Provider uses Electronic Data Interchange (EDI) files to transmit and receive

enrollment or payment information. A Bulk Provider also has additional remittance methods (bulk ACH debit entries and bulk FTA entries).

.09 *Federal tax application (FTA) transaction*. An “FTA transaction” (also referred to as “Same-Day Payment”) is an electronic transfer of funds that receives, processes, and transmits an FTD or FTP and the related tax payment information for Same-Day Payments. A single FTA transaction is a transfer of funds representing one FTD or FTP. A bulk FTA transaction (a remittance method available only in the Bulk Provider program) is a transfer of funds representing multiple FTDs or FTPs. See section 10 of this revenue procedure, section 3.07 of Rev. Proc. 97-33 (under the name “electronic tax application”), and www.eftps.gov for further information on an FTA transaction.

.10 *Employer identification number (EIN)*. An “EIN” is a unique nine digit taxpayer identifying number issued by the Service to business taxpayers for the purpose of reporting tax related information.

.11 *Federal Reserve Bank (FRB)*. The “FRB” is the U.S. Government's fiscal agent. The FRB also processes ACH transactions to a commercial financial institution account or to a Treasury Department account.

.12 *Financial Agent*. For purposes of EFTPS, a “Financial Agent” (also referred to as a “Treasury Financial Agent”) is a financial institution that is designated as an agent of the Treasury Department. The Secretary has designated Bank of America to be the Financial Agent for EFTPS. The Financial Agent processes Batch Provider and Bulk Provider registrations, processes taxpayer enrollments, receives payment information, originates ACH debit entries upon instructions from taxpayers or Providers, and provides customer service assistance for EFTPS enrollment and payment information.

.13 *IRS individual taxpayer identification number (ITIN)*. An “ITIN” is a taxpayer identifying number issued by the Service to an alien individual who is ineligible to receive a social security number (SSN) for the purpose of reporting tax related information.

.14 *Prenotification ACH credit*. “Prenotification ACH credit” is a process whereby a financial institution verifies the appropriate Treasury Routing Transit Number (RTN), the Treasury Department's account number, and the taxpayer's taxpayer identification number (TIN).

.15 *Prenotification ACH debit*. “Prenotification ACH debit” is a process whereby the appropriate Financial Agent verifies the RTN of the financial institution, the account number, and the account type.

.16 *Provider*. A “Provider” is a person making FTDs or FTPs on behalf of multiple taxpayers in the Batch Provider or Bulk Provider program. Each Provider must be either the taxpayer or a person authorized to act on behalf of the taxpayer.

.17 *Social security number*. A “SSN” is a taxpayer identifying number assigned to an individual or estate by the Social Security Administration.

.18 *Taxpayer identification number (TIN)*. A “TIN” is the identifying number assigned to a person under § 6109. A TIN includes an EIN, ITIN, or SSN.

SECTION 4. GENERAL PROCEDURES

Providers must follow the following procedures to participate in the Batch Provider or Bulk Provider programs:

(1) register as a Provider with the Financial Agent (see section 5 of this revenue procedure);

(2) obtain an Authorization from each taxpayer for which the Provider will be submitting enrollments and making FTDs or FTPs, and submit these Authorizations to the Service in accordance with the instructions to Form 8655, Reporting Agent Authorization, or any successor form (see section 6 of this revenue procedure); and

(3) enroll each of those taxpayers with the Financial Agent (see section 7 of this revenue procedure).

SECTION 5. REGISTRATION

.01 A Provider may register for the Batch Provider or Bulk Provider program if the Provider anticipates making FTDs or FTPs for multiple taxpayers.

.02 The Batch Provider program is recommended for Providers who anticipate submitting 50 or more enrollments. Additional information for Batch Providers is furnished in the Implementation Guide for EFTPS Batch Providers. A copy of this implementation guide may be obtained from EFTPS Customer Service (see section 21 of this revenue procedure).

.03 The Bulk Provider program is recommended for Providers who anticipate making 750 or more FTDs or FTPs on a peak day. Additional information for Bulk Providers is furnished in the Implementation Guide for EFTPS Bulk Providers. A copy of this implementation guide may be obtained from EFTPS Customer Service (see section 21 of this revenue procedure).

.04 A Provider wanting to participate in either the Batch Provider or Bulk Provider program must submit the appropriate registration letter (also referred to as an "Agreement") in accordance with the instructions in the EFTPS.gov website. Some Bulk Providers may wish to use the Batch Provider program as a backup. To participate in both programs, a Provider must submit a Batch Provider registration letter and a Bulk Provider registration letter. Blank registration letter(s) may be obtained by contacting the Financial Agent.

.05 A Provider must submit the registration letter to the address designated in the instructions accompanying the registration letter.

.06 If an unregistered entity acquires a registered Provider, a new registration letter must be submitted by the unregistered entity if it wants to participate in either the Batch Provider or Bulk Provider program.

.07 A Provider should notify the Financial Agent if the Provider chooses to withdraw from either the Batch Provider or Bulk Provider program. A Provider that is inactive in the Batch Provider or Bulk Provider program (that is, the Provider has submitted no enrollments, FTDs, or FTPs in that program) for six months or more is treated as having withdrawn from that program. If a Bulk Provider uses the Batch Provider program as a backup, the Provider must submit an FTD or FTP through the Batch Provider program at least once every six months to prevent the Provider from being treated as having withdrawn from the Batch Provider program. If a Provider withdraws (or is treated as having withdrawn) from a program, the Provider must re-register to participate in that program.

SECTION 6. AUTHORIZATIONS

.01 If a Provider is not the taxpayer, the Provider must obtain the taxpayer's Authorization before submitting the taxpayer's enrollment to the Financial Agent.

.02 Except as provided under the grandfather rule in section 23.02 of this revenue procedure, an Authorization must be prepared on Form 8655, Reporting Agent Authorization, or any other instrument that complies with Rev. Proc. 96-17, 1996-1 C.B. 633 and Rev. Proc. 2012-32, 2012-34 I.R.B. _____, or any successor published guidance. The Authorization must be maintained

and provided to the Service in accordance with the instructions to the Form 8655 or any successor form.

.03 A Provider that acquires all or some of the clients of another Provider must obtain new Authorizations from those clients. The new Authorizations must be maintained and provided to the Service in accordance with the instructions to the Form 8655 or any successor form before the Provider makes FTDs and FTPs on behalf of those clients.

.04 An Authorization permits a Provider to submit enrollments and to make FTDs or FTPs on behalf of a taxpayer. An Authorization may also permit the Provider to receive certain tax information on behalf of the taxpayer. Although EFTPS is designed for the payment of various types of tax, the Authorization may limit the types of tax information the Provider is permitted to receive. For example, a Provider may make FTDs and FTPs on behalf of the taxpayer, but may be authorized to receive only notices regarding FTDs for Form 941, Employer's QUARTERLY Federal Tax Return, and Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return.

.05 Except as provided in section 6.07 of this revenue procedure, a Provider submitting Authorizations to the Service for the Batch Provider and Bulk Provider programs on or after April 27, 1998, must include a list of all taxpayers for whom the Provider is submitting Authorizations. The list must include each taxpayer's complete name (for example, business name on file with Service), address (including zip code), and TINs, EINs, SSNs, and ITINs should each be grouped separately. Within each group, the taxpayers must be listed in TIN number sequence.

.06 Except as provided in section 6.07 of this revenue procedure and the instructions to the Form 8655 or any successor form, the Authorizations and the accompanying list must be submitted to:

Internal Revenue Service
Accounts Management Service Center
MS 6748 RAF Team
1973 North Rulon White Blvd.
Ogden, UT 84404

or faxed to the Reporting Agents File (RAF) Team at (801) 620-4142 (not a toll-free number), or submitted or faxed as set forth in published guidance, publications or on www.irs.gov.

.07 If a Provider has submitted Authorizations to the Service for the Form 941 e-file program, as described in Rev. Proc. 2007-40, 2007-1 C.B. 1488, or the former Form 941 or Form 940 Mag Tape Programs, as described in Rev. Proc. 96-18, 1996-1 C.B. 637, and these Authorizations allow the Provider to make payments on behalf of the taxpayer, the Provider is not required to resubmit the Authorizations or to submit a list containing those Authorizations to the Service. Similarly, if a Provider has submitted Authorizations to the Service for the magnetic tape FTD program, as described in Rev. Proc. 96-17, 1996-1 C.B. 633, the Provider is not required to resubmit the Authorizations or to submit a list containing those Authorizations to the Service.

.08 To delete Authorizations that a Provider previously submitted to the Service, the Provider must submit a list of the taxpayers to be deleted to the RAF Team. The list must be submitted in the format prescribed in section 6.05 of this revenue procedure and to the address (or fax number) provided in section 6.06 of this revenue procedure.

SECTION 7. ENROLLMENT

.01 A Provider must submit electronic taxpayer enrollments to the Financial Agent in accordance with the applicable implementation guide. As part of completing each taxpayer enrollment, the Provider may choose to use the ACH debit entry or ACH credit entry remittance method on a taxpayer-by-taxpayer basis. In both the Batch Provider and the Bulk Provider

programs, enrollment of a taxpayer in the ACH debit remittance method will automatically enroll the taxpayer in the ACH credit remittance method. In the Bulk Provider program, enrollment of a taxpayer in the ACH credit remittance method will automatically enroll the taxpayer in the ACH debit remittance method. However, in the Batch Provider program, enrollment of a taxpayer in the ACH credit remittance method will *not* automatically enroll the taxpayer in the ACH debit remittance method.

.02 The Financial Agent will verify the accuracy of the enrollment information for each taxpayer and enter the verified enrollment information in its enrollment record database. As part of the verification process for an ACH debit entry in the Batch Provider program, the Financial Agent will originate a prenotification ACH debit, if requested by the Batch Provider. In the Bulk Provider program, prenotification ACH debits are not available. When a prenotification ACH debit is not made, the Provider assumes responsibility for the accuracy of the information, including the RTN of the financial institution.

.03 When the enrollment process for a taxpayer is completed, the Financial Agent will provide the Provider with an enrollment response record that either accepts or rejects the taxpayer's enrollment. A rejected enrollment will identify necessary corrections. Any necessary corrections must be submitted by the Provider as a new enrollment of that taxpayer.

.04 If a Provider attempts to make an FTD or FTP through EFTPS before a taxpayer is enrolled, the FTD or FTP generally will be rejected and the taxpayer may be subject to a penalty for a late FTD or FTP.

SECTION 8. ACH DEBIT ENTRY

.01 For an FTD or FTP to be timely, a Provider must complete the initiation of an ACH debit entry with the Financial Agent at least one business day prior to the FTD or FTP due date.

.02 A Provider may hold an ACH debit entry for a business taxpayer by arranging for the entry up to 30 days in advance of the due date. A Provider may warehouse an ACH debit entry for an individual taxpayer by arranging for the entry up to 105 days in advance of the due date.

.03 After a Batch Provider or a Bulk Provider initiates a single ACH debit entry, the Financial Agent will validate the taxpayer's payment information and issue an acknowledgment number to the Provider. The acknowledgment number verifies when the necessary payment information was received by the Financial Agent but does not constitute proof of payment. See section 11 of this revenue procedure regarding proof of payment.

.04 After a Bulk Provider initiates a bulk ACH debit entry, the Financial Agent will validate the taxpayer's payment information and issue acknowledgment numbers to the Provider for accepted payments. The Bulk Provider will receive an acknowledgment number for the bulk ACH debit entry and separate acknowledgement numbers for each accepted FTD or FTP included in the bulk ACH debit entry. The acknowledgment numbers verify when the necessary payment information was received by the Financial Agent but do not constitute proof of payment. See section 11 of this revenue procedure regarding proof of payment.

.05 In a bulk FTA debit entry, any rejected payment will be returned to the Bulk Provider without an acknowledgement number and subtracted from the bulk ACH debit entry, as specified in the Implementation Guide for EFTPS Bulk Providers. The Bulk Provider assumes responsibility for reinitiating any rejected payments.

.06 Pursuant to the Provider's instructions, the Financial Agent, on the date designated by the Provider, will originate the transfer of funds from the taxpayer's or Provider's account to the appropriate Treasury Department account. The Financial Agent also will transmit the related payment information, supplied by the Provider, to the Service for posting to the tax account(s) of the taxpayer(s).

.07 The Service will deem an FTD or FTP made by an ACH debit entry to have been made at the time of the debit.

.08 When a timely ACH debit entry cannot be made, a Provider may instruct the Financial Agent to complete the transaction at the next opportunity to submit an ACH debit entry. The Provider may also use an ACH credit entry or an FTA transaction. If a taxpayer is not required to use EFT for FTDs, the Provider may, to the extent permitted by regulations under § 6302, remit the payment with the tax return to which the payment relates. To avoid penalties, the FTD or FTP must be received by an appropriate means on or before the FTD or FTP due date.

.09 The ACH Rules will govern ACH debit entry returns and reversals.

SECTION 9. ACH CREDIT ENTRY

.01 If a Provider chooses the ACH credit entry remittance method to make an FTD or FTP, the Provider may use any financial institution capable of originating an ACH credit entry.

.02 For each TIN used in making ACH credit entries through a financial institution, the Provider may request that the financial institution originate a prenotification ACH credit.

.03 To initiate a timely ACH credit entry, a Provider must take into account the financial institution's deadline for originating an ACH credit entry.

.04 When a timely ACH credit entry cannot be made, a Provider may instruct the financial institution to complete the transaction at the next opportunity to submit an ACH credit entry. The Provider may also use an FTA transaction. A Bulk Provider may initiate an ACH debit entry. However, a Batch Provider may initiate an ACH credit entry only if the taxpayer is enrolled for the ACH debit remittance method. If a taxpayer is not required to use EFT for FTDs, the Provider may, to the extent permitted by regulations under § 6302, remit the payment with the tax return to which the payment relates. To avoid penalties, the FTD or FTP must be received by an appropriate means on or before the FTD or FTP due date.

.05 The Financial Agent will receive and process the ACH credit entry payment information. The Financial Agent will compare the payment information for the transaction with the taxpayer's enrollment record. If they match, the Financial Agent will send the payment information to the Service for posting to the taxpayer's tax account.

.06 If the Financial Agent cannot identify the taxpayer, the ACH credit entry will be returned to the originating financial institution.

.07 Failure to provide correct, complete, and properly formatted payment information may cause an ACH credit entry to be returned. In the event of a return, a Provider may instruct the financial institution to submit a corrected ACH credit entry at the next opportunity to submit an ACH credit entry. The Provider may also use an FTA transaction. A Bulk Provider may initiate an ACH debit entry. However, a Batch Provider may initiate an ACH debit entry only if the taxpayer is enrolled for the ACH debit remittance method. If a taxpayer is not required to use EFTPS for FTDs, the Provider may, to the extent permitted by regulations under § 6302, remit the payment with the tax return to which the payment relates. To avoid penalties, the FTD or FTP must be received by an appropriate means on or before the FTD or FTP due date.

.08 An ACH credit entry that is not returned or reversed will be deemed made at the time that the funds are paid into the appropriate Treasury Department account.

.09 The ACH Rules will govern ACH credit entry returns and reversals.

SECTION 10. FEDERAL TAX APPLICATION TRANSACTION

.01 A Provider may use an FTA transaction to make an FTD or FTP. The Provider should contact the financial institution through which the FTA payment will be made to determine if the financial institution is capable of making an FTA payment.

.02 A Bulk Provider may use a bulk FTA transaction to make FTDs or FTPs. The Bulk Provider should contact the financial institution through which the bulk FTA payment will be made to determine if the financial institution is capable of making a bulk FTA payment.

.03 If a Provider uses a single FTA transaction, the transfer of funds and the transmission of the related payment information occur together. If a Bulk Provider uses a bulk FTA transaction, the transmission of the payment information precedes the related transfer of funds, both of which occur on the same day.

.04 The Service generally will deem an FTA payment to have been made on the date the payment is received by the FRB. A Provider should contact the financial institution through which the FTA payment will be made to determine the deadline for initiating FTA payments for a particular day. FTA payments received by the FRB after the deadline set forth in the Treasury Financial Manual, Volume IV (IV TFM), will not be accepted. Currently, the deadline in IV TFM is 2:00 p.m. Administrative FRB Head Office Local Zone Time. If a payment is not accepted, the Provider must reoriginate the payment using an FTA transaction or any other permissible remittance method.

.05 Additional FTA information may be found in the sections on Same-Day Payments in the Implementation Guide for EFTPS Bulk Providers and the EFTPS Payment Instruction Booklets for businesses and on www.eftps.gov.

SECTION 11. PROOF OF PAYMENT

.01 For an ACH debit or credit entry posted to the taxpayer's account in a financial institution, a statement prepared by that financial institution showing a transfer (that is, a decrease to the taxpayer's account balance) will be accepted as proof of payment if the statement:

- (1) shows the amount and the date of the transfer; and
- (2) identifies the U.S. Government as the payee (for example, "USA tax").

.02 For an FTA payment posted to the taxpayer's account in a financial institution, a taxpayer may request that its financial institution obtain a statement from the FRB that executed the transfer. This statement will be accepted as proof of payment if the statement:

- (1) shows the amount and the date of the transfer; and
- (2) identifies the U.S. Government as the payee (for example, "USA tax").

.03 For purposes of this section, statements prepared by a financial institution include statements prepared by a third party that is contractually obligated to prepare statements for the financial institution.

.04 A taxpayer's payment to a Provider (including a subsidiary's payment to its parent) is not a payment of tax by the taxpayer. Therefore, a statement prepared by the taxpayer's financial institution showing a transfer from the taxpayer's account to the Provider as payee is not proof of payment. Further, a statement prepared by the Provider's financial institution showing a transfer of funds from the Provider's account to the U.S. Government is not proof of payment because the payment may not have been made on behalf of the taxpayer. The taxpayer will need the acknowledgement number for an FTD or FTP made from the Provider's account to establish that the FTD or FTP was made on behalf of the taxpayer. The acknowledgement number allows the Service to trace the payment. The Provider has the acknowledgement number or may obtain it from the Financial Agent.

SECTION 12. REFUNDS

No refunds of FTDs or FTPs will be made through EFTPS. However, a refund request may be made using existing tax refund procedures. If a taxpayer's error results in a substantial hardship, the taxpayer may contact the Service at (800) 829-1040 for assistance.

SECTION 13. DISASTER PROCEDURES

.01 A taxpayer's ability to make FTDs and FTPs timely may be affected by the time, severity, and extent of a major disaster. In such circumstances, the Service provides relief through the nonassertion or abatement of certain penalties. The Service publicizes the relief for a particular disaster area through the publication of a News Release, Notice, or Announcement. Generally, the Service identifies the taxpayers who qualify for this disaster relief.

.02 If a disaster affects a Provider, the Provider should provide the Service with the information necessary to identify those FTDs and FTPs of taxpayers outside the disaster area that were or will be late due to the disaster. The Service will then determine if the nonassertion or abatement of certain penalties or interest is appropriate.

.03 In addition, if a Bulk Provider's primary processing system is affected by a disaster and the Bulk Provider's backup processing system fails, the Bulk Provider may use an emergency bulk FTA transaction under which the transfer of funds occurs before the transmission of the related payment information.

SECTION 14. RESPONSIBILITIES OF A PROVIDER

.01 Each Provider must:

- (1) comply with this revenue procedure and the applicable implementation guide (Implementation Guide for EFTPS Batch Providers or Implementation Guide for EFTPS Bulk Providers);
- (2) maintain a high degree of integrity, compliance, and accuracy;
- (3) ensure that FTDs and FTPs are accurately and timely made;
- (4) ensure the security of all transmitted information; and
- (5) ensure that after a disabling event the Provider is able to operate its Batch Provider or Bulk Provider programs with minimal interruption (generally, less than 24 hours).

.02 A Provider that is not the taxpayer must:

- (1) retain copies of each Authorization and each enrollment at its principal place of business for 4 years after the prescribed due date of the last return to which the any FTD or FTP relates, unless the Provider is otherwise notified by the Service or unless the instructions to the Form 8655 or any successor form provide otherwise;
- (2) retain any payment information (including acknowledgement numbers) at its principal place of business for 4 years after the prescribed due date of the return to which the FTD or FTP relates, unless the Provider is otherwise notified by the Service. A shorter retention period for payment information may be substituted for this "4-year" retention period, provided the Provider notifies the taxpayer in writing that the Provider will not be retaining the payment information after the shorter retention period and the Provider gives such information to the taxpayer. The shorter retention period must be at least 90 days; and
- (3) advise the taxpayer to enroll itself separately in EFTPS. If the Provider is not authorized to make all the taxpayer's required FTDs and FTPs, the taxpayer's separate enrollment will allow the taxpayer to make its own FTDs and FTPs through EFTPS. To enroll separately, a taxpayer must submit a completed Form 9779, EFTPS Business Enrollment Form, or Form 9783, EFTPS Individual Enrollment Form, to the EFTPS Enrollment Processing Center at the address provided in the applicable form's instructions. See Rev. Proc. 97-33 and www.eftps.gov for more information.

.03 A Provider that is the taxpayer must:

- (1) absent a specific retention period prescribed by regulations, retain the payment information and any supporting material at its principal place of business for as long as the contents thereof may become material in the administration of any internal revenue law; and
- (2) retain copies of each enrollment at its principal place of business for 4 years after the prescribed due date of the return to which the last FTD or FTP relates, unless otherwise notified by the Service.

SECTION 15. ADVERTISING STANDARDS

.01 A Provider must comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). Circular 230 prohibits participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim.

.02 A Provider must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting.

.03 A Provider must not use the Service's name, "Internal Revenue Service" or "IRS," within a firm's name.

.04 A Provider must not use improper or misleading advertising in relation to EFTPS.

.05 Advertising materials must not carry the Service, FMS, or other Treasury Seals.

.06 If a Provider uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The Provider must keep a copy of the pre-recorded advertisement for a period of at least 36 months from the date of the last transmission or use.

.07 If a Provider uses direct mail, e-mail, or fax communications to advertise, the Provider must retain a copy of the actual mailing, e-mail, or fax, along with a list or other description of the firms, organizations, or individuals to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36 months from the date of the last mailing, fax, or distribution.

.08 If a Provider uses a Web site or print media (including newspapers, magazines, or yellow pages) to advertise, the Provider must retain a copy of the advertising for a period of at least 36 months from the date of the last posting or publication.

.09 Acceptance in the Batch Provider or Bulk Provider programs is not an endorsement by the Service, FMS, or the Treasury Department of the quality of the services provided by the Provider.

SECTION 16. REASONS FOR SUSPENSION

.01 The Service reserves the right to suspend a Provider from the Batch Provider or Bulk Provider programs for the following reasons (this list is not all-inclusive):

- (1) failing to submit payment information in accordance with this revenue procedure and the applicable implementation guides;
- (2) failing to maintain and make available the required records for the period specified in section 14 of this revenue procedure;
- (3) submitting payment information on behalf of taxpayers for which the Service did not receive Authorizations;
- (4) failing to abide by the advertising standards in section 15 of this revenue procedure;
- (5) failing to cooperate with the Service's efforts to monitor Providers and investigate abuse in the Batch Provider or Bulk Provider programs; or

(6) generating significant complaints about the Provider's performance in the Batch Provider or Bulk Provider programs.

.02 If the Service informs a Provider that a certain action is a reason for suspension and the action continues, the Service may send the Provider a notice proposing suspension of the Provider from the Batch Provider or Bulk Provider program. However, a notice proposing suspension may be sent without a warning if the Provider's action indicates an intentional disregard of rules. A notice proposing suspension will describe the reason(s) for the proposed suspension, and indicate the length of the suspension and the conditions that need to be met before the suspension will terminate.

SECTION 17. ADMINISTRATIVE REVIEW PROCESS FOR PROPOSED SUSPENSION

.01 A Provider that receives a notice proposing suspension from the Batch Provider or Bulk Provider program, as described in section 16.02 of this revenue procedure, may request an administrative review prior to the proposed suspension taking effect.

.02 The request for an administrative review must be in writing and contain detailed reasons, with supporting documentation, for withdrawal of the proposed suspension.

.03 The written request for an administrative review and a copy of the notice proposing suspension must be delivered to the address designated in the notice within 30 days of the effective date on the notice.

.04 After consideration of the written request for an administrative review, the Service will either issue a suspension letter or notify the Provider in writing that the proposed suspension is withdrawn.

.05 If a Provider receives a suspension letter, the Service's subsequent determination of whether a reason for suspension has been corrected is not subject to administrative review or appeal.

.06 Failure to submit a written request for an administrative review within the 30-day period described in section 17.03 of this revenue procedure irrevocably terminates the Provider's right to an administrative review of the proposed suspension, and the Service will issue a suspension letter.

SECTION 18. EFFECT OF SUSPENSION

.01 The Provider's suspension will continue for the length of time specified in the suspension letter, or until the conditions for terminating the suspension have been met, whichever is later.

.02 After suspension, a Provider may submit an FTD under the Batch Provider or Bulk Provider program only if the FTD is due not more than 30 days after the effective date on the suspension letter. No FTPs may be submitted by the Provider under the Batch Provider or Bulk Provider programs during the suspension period.

.03 A Provider must provide written notification of a suspension from the Batch Provider or Bulk Provider programs to each taxpayer in the program(s) within 10 days from the date on the suspension letter. This notification must be provided even though the Provider may believe that the Provider will be able to meet the conditions for terminating the suspension within the 30-day period provided in section 19.02 of this revenue procedure.

.04 A Provider will be able to submit payment information under the Batch Provider or Bulk Provider programs without re-registering for those programs after:

- (1) the stated suspension period expires; and
- (2) the reason(s) for suspension is corrected.

SECTION 19. APPEAL OF SUSPENSION

.01 If a Provider receives a suspension letter from the Service, the Provider is entitled to appeal, by written protest, to the Service. The written protest must be delivered to the address designated on the suspension letter. During the appeals process, the suspension remains in effect.

.02 The written protest must be received by the Service within 30 days of the effective date on the suspension letter. The written protest must contain detailed reasons, with supporting documentation, for withdrawal of the suspension.

.03 Failure to appeal within the 30-day period described in section 19.02 of this revenue procedure irrevocably terminates the Provider's right to appeal the suspension under section 19.01 of this revenue procedure.

SECTION 20. ADDITIONS TO TAX AND PENALTIES

.01 Section 6656 imposes a failure-to-deposit penalty if a taxpayer does not make a timely FTD, unless such failure is due to reasonable cause and not due to willful neglect. See Rev. Rul. 94-46, 1994-2 C.B. 278. Absent reasonable cause, a taxpayer that is required to deposit federal taxes by EFT is subject to the failure-to-deposit penalty if FTDs are made by means other than EFT (for example, submitting a paper check with a return). See Rev. Rul. 95-68, 1995-2 C.B. 272.

.02 Section 6655 imposes an addition to tax for underpayments of estimated tax by a corporation, private foundation, tax-exempt organization, or qualified settlement fund.

.03 Section 6651 imposes an addition to tax for failure to pay if a taxpayer does not make a timely FTP, unless such failure is due to reasonable cause and not due to willful neglect.

SECTION 21. FORMS, PUBLICATIONS, IMPLEMENTATION GUIDES, AND ADDITIONAL INFORMATION

.01 A Provider may obtain copies of this revenue procedure, enrollment forms (Forms 9779 and 9783), implementation guides, payment instruction booklets, registration letters, and additional information on EFTPS by calling EFTPS Customer Service at (800) 555-4477.

.02 A Provider may obtain enrollment forms and Authorizations (Forms 8655) by calling the IRS Distribution Center at (800) TAX-FORM ((800) 829-3676).

.03 A Provider may obtain information on the submission of Authorizations by accessing the Reporting Agents File webpage at www.irs.gov.

SECTION 22. EFFECT ON OTHER DOCUMENTS

This revenue procedure modifies and supersedes Rev. Proc. 98-32, 1998-1 C.B. 935.

SECTION 23. EFFECTIVE DATE

.01 *In general.* This revenue procedure is effective November 19, 2012.

.02 *Grandfather rule.* A power of attorney on Form 2848, Power of Attorney and Declaration of Representative, or other document that satisfies the requirements of § 601.503(a) of the Statement of Procedural Rules, that was submitted to the Service on or before April 27, 1998, will be treated as an Authorization for purposes of this revenue procedure, even though it does not comply with section 6.02 of this revenue procedure.

SECTION 24. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1601.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in this revenue procedure are in sections 5, 6, 7, 8, 11, 13, 14, and 15 of this revenue procedure. This information is required to implement EFTPS, and verify that taxpayers have met their obligations to pay their taxes and make FTDs by EFT. This information will be used to identify persons paying taxes and making FTDs on behalf of taxpayers and to credit taxpayers' tax accounts for FTDs and FTPs made through EFT. The collections of information are mandatory. The likely respondents are business or other for-profit institutions.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 25. DRAFTING INFORMATION

The principal author of this revenue procedure is Nathan Rosen of the Office of Associate Chief Counsel (Procedure and Administration). For assistance regarding matters described in this revenue procedure, please call EFTPS Customer Service at (800) 555-4477.