

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 98-45, page 4.

Low-income housing credit; satisfactory bond; "bond factor" amounts for the period July through September 1998. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period July through September 1998.

EMPLOYEE PLANS

Announcement 98-85, page 30.

Forms 5300, 5303, 5307 and 6406, and Schedule Q (Form 5300), used for requesting determination letters for ongoing employee benefit plans, have been revised. The new revision date is July 1998.

EXEMPT ORGANIZATIONS

Announcement 98-86, page 31.

A list is provided of organizations that no longer qualify as organizations to which contributions are deductible under section 170 of the Code.

ADMINISTRATIVE

Rev. Proc. 98-48, page 7.

Qualified small business stock; rollover of gain; election. Procedures are provided for taxpayers to make an

election under section 1045 of the Code to defer recognition of gain on the sale of qualified small business stock.

Rev. Proc. 98-50, page 8.

Form 1040 IRS *e-file* program. Participants in the Form 1040 IRS *e-file* program are informed of their obligations to the Service, taxpayers, and other participants. Rev. Proc. 97-60 superseded.

Rev. Proc. 98-51, page 20.

Form 1040 on-line filing program. Participants in the Form 1040 on-line filing program are informed of their obligations to the Service, taxpayers, and other participants. Rev. Proc. 97-61 superseded.

Notice 98-49, page 5.

Section 408A; Roth IRAs, reporting requirements. This notice describes certain reporting requirements for Roth IRAs as described in section 408A of the Code and certain changes to IRAs contained in the Internal Revenue Service Restructuring and Reform Act of 1998. Notice 87-13 and Notice 87-16 modified.

Announcement 98-84, page 30.

The Service announces a delay in changes to Forms W-2 and W-3 until tax year 2000. In Announcement 98-55, 1998-26 I.R.B. 41, the Service requested comments on proposed changes to the 1999 Forms W-2 and W-3. Based on a review of those comments, the Service will postpone making major revisions to Forms W-2 and W-3 until tax year 2000 forms, which will be filed in 2001.

Finding Lists begin on page 33.

Announcement of Declaratory Judgment Proceedings Under section 7428 begins on page 31.

Mission of the Service

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the quality of our prod-

ucts and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness.

Statement of Principles of Internal Revenue Tax Administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

With the exception of the Notice of Proposed Rulemaking and the disbarment and suspension list included in this part, none of these announcements are consolidated in the Cumulative Bulletins.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis and are published in the first Bulletin of the succeeding semiannual period, respectively.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

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Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 42.—Low-Income Housing Credit

Low-income housing credit; satisfactory bond; “bond factor” amounts for the period July through September 1998. This ruling announces the monthly bond factor amounts to be used by taxpayers who dispose of qualified low-income buildings or interests therein during the period July through September 1998.

Rev. Rul. 98-45

In Rev. Rul. 90-60, 1990-2 C.B. 3, the Internal Revenue Service provided guidance to taxpayers concerning the general methodology used by the Treasury Department in computing the bond factor amounts used in calculating the amount of bond considered satisfactory by the Secretary under § 42(j)(6) of the Internal Revenue Code. It further announced that

the Secretary would publish in the Internal Revenue Bulletin a table of “bond factor” amounts for dispositions occurring during each calendar month.

This revenue ruling provides in Table 1 the bond factor amounts for calculating the amount of bond considered satisfactory under § 42(j)(6) for dispositions of qualified low-income buildings or interests therein during the period July through September 1998

Table 1
Rev. Rul. 98-45
Monthly Bond Factor Amounts for Dispositions Expressed
As a Percentage of Total Credits

Calendar Year Building Placed in Service or, if Section 42(f)(1) Election Was Made, the Succeeding Calendar Year												
Month of Disposition	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Jul '98	61.09	75.25	75.33	77.22	79.49	82.08	84.70	87.18	89.60	92.21	94.81	97.21
Aug '98	61.09	75.25	75.13	77.01	79.27	81.85	84.47	86.93	89.35	91.97	94.61	97.21
Sep '98	61.09	75.25	74.93	76.81	79.06	81.63	84.23	86.70	89.12	91.74	94.42	97.21

For a list of bond factor amounts applicable to dispositions occurring during other calendar years, see the following revenue rulings: Rev. Rul. 95-83, 1995-2 C.B. 8, for dispositions occurring during calendar year 1995; Rev. Rul. 98-3, 1998-2 I.R.B. 4, for dispositions occurring during the calendar years 1996 and 1997; Rev. Rul. 98-13, 1998-11 I.R.B. 4, for dispositions occurring during the period January through March 1998; and Rev. Rul. 98-31, 1998-25 I.R.B. 4, for dispositions occurring during the period April through June 1998.

DRAFTING INFORMATION

The principal author of this revenue ruling is Jack Malgeri of the Office of Assistant Chief Counsel (Passthroughs and

Special Industries). For further information regarding this revenue ruling, contact Mr. Malgeri at (202) 622-3040 (not a toll-free call).

Section 6012.—Persons Required To Make Returns of Income

26 CFR 1.6012-5: Composite return in lieu of specified form.

For the requirements for participation in the Form 1040 IRS *e-file* program, see Rev. Proc. 98-50, page 8.

26 CFR 1.6012-5: Composite return in lieu of specified form.

For the requirements for participation in the

Form 1040 on-line filing program, see Rev. Proc. 98-51, page 20.

Section 6061.—Signing of Returns and Other Documents

26 CFR 1.6061-1: Signing of returns and other documents by individuals.

For the requirements for participation in the Form 1040 IRS *e-file* program, see Rev. Proc. 98-50, page 8.

26 CFR 1.6061-1: Signing of returns and other documents by individuals.

For the requirements for participation in the Form 1040 on-line filing program, see Rev. Proc. 98-51, page 20.

Part III. Administrative, Procedural, and Miscellaneous

Roth IRA Guidance

Notice 98-49

PURPOSE AND BACKGROUND

This notice provides guidance relating to Service-approved Roth IRA documents and IRA reporting requirements. In addition, this notice summarizes a number of recent changes in the law governing all IRAs, which affect Notice 87-13, 1987-1 C.B. 432, and Notice 87-16, 1987-1 C.B. 446.

Roth IRAs are a new type of IRA, described in § 408A of the Internal Revenue Code ("Code"), that individuals can use beginning in 1998. Section 408A was added to the Code by § 302 of the Taxpayer Relief Act of 1997 ("TRA 97"), Pub. L. 105-34, to authorize a new type of individual retirement arrangement (the "Roth IRA"). This notice reflects changes relating to Roth IRAs contained in the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Restructuring Act"), Pub. L. 105-206.

The Internal Revenue Service recently issued proposed regulations, §§ 1.408A-1 through 1.408A-9, relating to Roth IRAs, which were published in the Federal Register on September 3, 1998. This notice incorporates definitions and terms that are contained in those proposed regulations.

For more information on IRAs, including Roth IRAs, see Publication 590, Individual Retirement Arrangements (IRAs), and Publication 553, Highlights of 1997 Tax Changes.

SECTION A. SERVICE-APPROVED ROTH IRA DOCUMENTS

Q. A-1. Are there model forms available for establishing a Roth IRA?

A. A-1. Yes. The Service has issued three model forms, Form 5305-R, Form 5305-RA and Form 5305-RB, that can be used to establish a Roth IRA as a trust account, a custodial account or an annuity, respectively. In the case of Form 5305-RB, the model form is used as an endorsement to an insurance company's annuity contract. Model forms issued by the Service contain pre-approved language that, if followed, will satisfy the applicable statutory requirements.

Q. A-2. Can the model forms be amended?

A. A-2. Article IX of each of these model forms permits certain amendments to be made to provisions of the Roth IRA in accordance with the instructions to the model forms. For example, under the model forms, a spouse who is the sole designated beneficiary is deemed to have elected to treat the Roth IRA, upon the death of the owner, as his or her own. The model forms can be amended to give a surviving spouse who is the sole designated beneficiary the option of not treating the Roth IRA, upon the death of the owner, as his or her own.

Q. A-3. Is the Service currently accepting applications for opinion letters on prototype Roth IRAs?

A. A-3. The Service is not currently accepting applications for opinion letters on prototype Roth IRAs. Announcement 97-122, 1997-50 I.R.B. 63, states that transitional relief similar to that provided under Rev. Proc. 97-29, 1997-1 C.B. 698, will be provided to sponsors and their customers who establish Roth IRAs with documents that have not been pre-approved by the Service. Thus, for example, if in January 1998 an individual made a contribution to a trust or custodial account or purchased an annuity using documents or associated written material that clearly designates the account or annuity as a Roth IRA, then, provided certain requirements are met, the individual will be deemed to have established a Roth IRA on that date using a document approved by the Service for use as a Roth IRA.

SECTION B. IRA REPORTING REQUIREMENTS

Q. B-1. What reporting requirements apply to the trustees in the case of a recharacterization of a contribution from a FIRST IRA to a SECOND IRA as described in § 1.408A-5 of the proposed Income Tax Regulations?

A. B-1. The general reporting requirements for Roth IRAs are described in proposed regulation § 1.408A-7. In addition, the following reporting requirements apply to the trustees of the FIRST IRA and the SECOND IRA when the IRA owner elects to treat a contribution as having

been made to the SECOND IRA and not to the FIRST IRA in accordance with the rules in § 1.408A-5. To the extent that the instructions for the 1998 Forms 1099-R and 5498 are inconsistent with the instructions for completing those forms provided in this Q&A B-1, trustees must follow the guidance provided in this notice.

(1) *Reporting by the trustee of the FIRST IRA.* The trustee of the FIRST IRA reports the contribution on Form 5498 showing the character of the contribution (rollover, conversion amount, or regular). If the recharacterization (i.e., the transfer) occurs in calendar year 1998, the trustee reports the recharacterization as a distribution on Form 1099-R showing Code G for direct rollover and showing the gross amount (contribution and earnings) in Box 1-Gross distribution and 0 (zero) in Box 2a-Taxable amount. For recharacterizations that occur in later years, the trustee reports in accordance with applicable Federal tax forms and instructions. For recharacterizations that occur in 1999, it is anticipated that the instructions to Form 1099-R will indicate that the trustee reports the recharacterization as a distribution on Form 1099-R showing new Code R for recharacterization and showing the gross amount (contribution and earnings) in Box 1-Gross distribution and 0 (zero) in Box 2a-Taxable amount.

(2) *Reporting by the trustee of the SECOND IRA.* For recharacterized amounts received on or before December 31, 1998, that are recharacterized as amounts contributed in calendar year 1998, the trustee of the SECOND IRA reports the contribution as a rollover contribution on a 1998 Form 5498. For recharacterized amounts received after December 31, 1998, the trustee reports in accordance with applicable Federal tax forms and instructions. It is anticipated that the instructions to the 1999 Form 5498 will provide that a recharacterized amount received by the trustee of the SECOND IRA will continue to be reported as a rollover contribution, but that (a) the checkbox entitled "Roth conv." on the 1998 Form 5498 will be retitled to identify a contribution as a recharacterization, (b) the trustee of the SECOND IRA will check both the box identifying the contribution as a recharac-

terization contribution and the box that identifies the type of IRA involved, and (c) the recharacterization must be reported on a Form 5498 that is separate from any Form 5498 otherwise required for the SECOND IRA.

Q. B-2. How does a trustee report on Form 1099-R a distribution from a Roth IRA that contains both regular and 1998 conversion contributions?

A. B-2. In the case of a distribution from a Roth IRA that contains both regular and 1998 conversion contributions, the trustee must use Code K in Box 7 of Form 1099-R.

SECTION C. OTHER RECENT CHANGES TO IRAS

Q. C-1. What effect does the recharacterization of a contribution (as described in § 1.408A-5 of the proposed Income Tax Regulations) have on the rules governing the nontaxable return of basis in the case of traditional IRA distributions?

A. C-1. Part III, "Distributions," of Notice 87-16, sets forth the rules for calculating the nontaxable return of basis in the case of distributions from traditional IRAs. These rules continue to apply except as modified below.

The total IRA account balances, the total nondeductible contributions, and the distribution amount (as these terms are used in Notice 87-16) for an individual for a taxable year are each adjusted to reflect recharacterized amounts contributed to, or distributed from, the traditional IRAs. For purposes of making this adjustment, the contribution that is being recharacterized as a contribution to the SECOND IRA is treated as having been originally contributed to the SECOND IRA on the same date and (in the case of a regular contribution) for the same taxable year that the contribution was made to the FIRST IRA. If the recharacterization transaction occurs after the close of the taxable year and if the recharacterization transaction involves a regular contribution for the prior taxable year, the recharacterization is disregarded for the prior taxable year in determining the total IRA account balances.

Q. C-2. Are there any new exceptions to the 10-percent additional tax on early distributions from IRAs?

A. C-2. Yes. Section 203 of TRA 97 added § 72(t)(2)(E) to the Code, which

provides that the additional 10-percent tax does not apply to IRA distributions for qualified higher education expenses of the IRA owner, the owner's spouse, or a child or grandchild of either. Qualified higher education expenses include tuition, supplies, and, for students who are at least half-time, room and board. (See Notice 97-60, 1997-46 I.R.B. 8.)

Section 303 of TRA 97 added § 72(t)(2)(F) to the Code, which provides that the additional 10-percent tax does not apply to an IRA distribution to acquire a first-time home for the IRA owner or a member of his or her family. To qualify, the distribution must be used for costs normally associated with acquiring a principal residence and the IRA owner (and if married, the owner's spouse), generally, must not have had an ownership interest in a principal residence for the previous 2 years. If the distributed money is not used for such purpose, the money can be recontributed by the 120th day after the distribution to the IRA without incurring the 10-percent tax. This exception for a first-time home purchase is subject to a lifetime cap of \$10,000 for each IRA owner; thus, an individual and his or her spouse would each be subject to a separate \$10,000 lifetime cap.

In addition, § 3436 of the IRS Restructuring Act added § 72(t)(2)(A)(vii) to the Code, which provides that the additional 10-percent tax does not apply to a distribution from a qualified retirement plan, including an IRA, that is made on account of a levy under § 6331 on the qualified retirement plan. The provision applies to distributions made after December 31, 1999.

Previous guidance relating to § 72(t) was provided in Part D of Notice 87-13. These rules continue to apply except as modified above.

Q. C-3. What changes are there in the "active participant" rules?

A. C-3. Section 301 of TRA 97 amended § 219 of the Code to provide for increased deductible contributions to traditional IRAs that can be made by active participants in employer-sponsored retirement plans. In 1998, the IRA deduction available to an unmarried active participant is phased out ratably between adjusted gross income of \$30,000 and \$40,000. This phase-out range is increased annually until 2005 when the phase-out range will be \$50,000 to

\$60,000. In the case of joint returns, the phase-out range is \$50,000 to \$60,000 for 1998, rising to \$80,000 to \$100,000 for 2007 and later years. In addition, an individual who is not an active participant but is married to someone who is can make a fully deductible traditional IRA contribution if their combined adjusted gross income is not more than \$150,000, or a partially deductible traditional IRA contribution if their combined adjusted gross income is between \$150,000 and \$160,000.

Previous guidance relating to the active participant rules was provided in Part IA of Notice 87-16. These rules continue to apply except as modified above.

Q. C-4. Are there any changes to the permissible investments available in an IRA?

A. C-4. Yes. Section 304 of TRA 97 amended § 408(m) of the Code to permit IRAs to invest in certain platinum coins and in gold, silver, platinum or palladium bullion, provided the bullion is in the physical possession of an IRA trustee.

Previous guidance relating to collectibles was provided in Part V of Notice 87-16. These rules continue to apply except as modified above.

EFFECT ON OTHER DOCUMENTS

Notice 87-16 and Notice 87-13 are modified.

REQUEST FOR COMMENTS

The Service and Treasury invite comments and suggestions concerning the guidance provided in this notice. Any correspondence received will be evaluated to determine whether additional guidance on Roth IRAs is necessary.

In particular, comments are requested on appropriate reporting of recharacterization transactions described in proposed regulation § 1.408A-5. The Service and Treasury recognize that recharacterization transactions present novel reporting issues for IRA trustees, and this notice provides for reporting such transactions in a manner that most closely approximates reporting for ordinary IRA distributions, contributions and trustee-to-trustee transfers. However, the Service and Treasury are considering other possible reporting alternatives for recharacterization transactions. For example, it might be appropri-

ate to require that the recharacterized contribution be reported by the trustee of the SECOND IRA on a Form 5498 for the year for which it is treated as having been contributed, even if the recharacterization occurs in the subsequent year. Another possible approach would be to require only the reporting by the trustee of the SECOND IRA involved in the recharacterization transaction that would have been required if the contribution had initially been made to the SECOND IRA and never had been made to the FIRST IRA.

Comments can be addressed to CC:DOM:CORP:R (Notice 98-49), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, comments may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (Notice 98-49), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may transmit comments electronically via the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

DRAFTING INFORMATION

The principal author of this notice is Roger Kuehnle of the Employee Plans Division. For further information regarding this notice, please contact the Employee Plans Division's taxpayer assistance telephone service at (202) 622-6074/6075 (not toll-free numbers), between the hours of 1:30 and 3:30 p.m. Eastern Time, Monday through Thursday.

Section 1045: Rollover of Gain From Qualified Small Business Stock to Another Qualified Small Business Stock

Rev. Proc. 98-48

SECTION 1. PURPOSE

This revenue procedure provides procedures for taxpayers to make an election under § 1045 of the Internal Revenue Code ("§ 1045 election") to defer recognition of certain gain on the sale of qualified small business stock ("QSB stock").

SECTION 2. BACKGROUND

.01 Section 1045(a), as added by

§ 313(a) of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788 (Aug. 5, 1997), and amended by § 6005(f) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (July 22, 1998), generally allows a taxpayer other than a C corporation to elect not to recognize gain from the sale of QSB stock held by the taxpayer for more than six months. If the taxpayer makes the election under § 1045 and this revenue procedure, gain from such sale is recognized only to the extent that the amount realized on the sale exceeds:

(1) the cost of any QSB stock that the taxpayer purchases during the 60-day period beginning on the date of sale, reduced by

(2) any portion of the cost of the replacement QSB stock that was previously taken into account under § 1045. However, the election is not available to defer any gain on the sale that is treated as ordinary income for purposes of the Code.

.02 Under § 1045(b), "qualified small business stock" has the same meaning as provided in § 1202(c).

.03 Section 1045(b)(5) provides that, for QSB stock held through passthrough entities, rules similar to the rules of § 1202(g) apply for purposes of § 1045. For example, a passthrough entity may make a § 1045 election if the entity sells QSB stock held for more than six months and purchases replacement QSB stock during the 60-day period beginning on the date of the sale. The benefit of deferral with respect to a sale of QSB stock by the passthrough entity will flow through to taxpayers (other than C corporations) that held interests in the entity during the entire period in which the entity held the QSB stock. Also, for example, if a passthrough entity sells QSB stock held for more than six months, an individual who has held an interest in the entity during the entire period in which the entity held the QSB stock and who purchases replacement QSB stock during the 60-day period beginning on the date of the sale of the QSB stock may make the § 1045 election with respect to the individual's share of any gain on the sale that the entity does not defer under § 1045.

SECTION 3. PROCEDURE

.01 *Time for Making the Election.*

A § 1045 election must be made on or before the later of December 31, 1998, or the due date (including extensions) for filing the income tax return for the taxable year in which the QSB stock is sold.

.02 *Manner of Making the Election.*

(1) *In general.* Except as provided in section 3.02(2) of this revenue procedure, the election is made by:

(a) reporting the entire gain from the sale of QSB stock on Schedule D, Capital Gains and Losses, of the return in accordance with the instructions for Schedule D;

(b) writing "section 1045 rollover" directly below the line on which the gain is reported; and

(c) entering the amount of the gain deferred under § 1045 on the same line as (b) above, as a loss, in accordance with the instructions for Schedule D.

(2) *Transition rule.* If gain is reportable on a return filed before October 21, 1998, and the return does not satisfy the requirements of section 3.02(1) of this revenue procedure but discloses the gain and includes an affirmative statement to the effect that a § 1045 election applies to the gain, the requirements of section 3.02(1) will be treated as satisfied and an amended return is not required to make the § 1045 election. Otherwise, an original or amended return satisfying the requirements of section 3.02(1) of this revenue procedure is required to make the § 1045 election with respect to such gain.

.03 *Scope of the Election.*

If a person has more than one sale of QSB stock in a taxable year that qualifies for the § 1045 election, the person may make a § 1045 election for any one or more of those sales.

.04 *Revocation.*

A § 1045 election is revocable only with the prior written consent of the Commissioner. To obtain the Commissioner's consent, the person who made the § 1045 election must submit a request for a private letter ruling in accordance with the provisions of Rev. Proc. 98-1, 1998-1 I.R.B. 7 (or its successor).

SECTION 4. EFFECTIVE DATE

This revenue procedure is effective for sales of QSB stock occurring after August 5, 1997.

DRAFTING INFORMATION

The principal author of this revenue

procedure is J. Peter Baumgarten of the office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Mr. Baumgarten on (202) 622-4950 (not a toll-free call).

26 CFR 601.602: Tax forms and instructions.
(Also Part I, Sections 6012, 6061; 1.6012-5, 1.6061-1.)

Rev. Proc. 98-50

CONTENTS

SECTION 1 PURPOSE
SECTION 2 BACKGROUND AND CHANGES
SECTION 3 FORM 1040 IRS *e-file* PROGRAM PARTICIPANTS—DEFINITIONS
SECTION 4 ACCEPTANCE IN THE FORM 1040 IRS *e-file* PROGRAM
SECTION 5 RESPONSIBILITIES OF AN AUTHORIZED IRS *e-file* PROVIDER
SECTION 6 PENALTIES
SECTION 7 FORM 8453, U.S. INDIVIDUAL INCOME TAX DECLARATION FOR AN IRS *e-file* RETURN
SECTION 8 INFORMATION AN AUTHORIZED IRS *e-file* PROVIDER MUST FURNISH TO THE TAXPAYER
SECTION 9 DIRECT DEPOSIT OF REFUNDS
SECTION 10 REFUND ANTICIPATION LOANS
SECTION 11 BALANCE DUE RETURNS
SECTION 12 ADVERTISING STANDARDS FOR AUTHORIZED IRS *e-file* PROVIDERS AND FINANCIAL INSTITUTIONS
SECTION 13 MONITORING AND SUSPENSION OF AN AUTHORIZED IRS *e-file* PROVIDER
SECTION 14 ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE FORM 1040 IRS *e-file* PROGRAM

SECTION 15 ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE FORM 1040 IRS *e-file* PROGRAM
SECTION 16 VITA AND TCE SPONSORED PARTICIPATION IN THE FORM 1040 IRS *e-file* PROGRAM
SECTION 17 EMPLOYER SPONSORED PARTICIPATION IN THE FORM 1040 IRS *e-file* PROGRAM
SECTION 18 PILOT PROGRAMS
SECTION 19 EFFECT ON OTHER DOCUMENTS
SECTION 20 EFFECTIVE DATE
SECTION 21 INTERNAL REVENUE SERVICE OFFICE CONTACT
SECTION 22 PAPERWORK REDUCTION ACT

SECTION 1. PURPOSE

This revenue procedure informs those who participate in the Form 1040 IRS *e-file* Program (formerly known as the Form 1040 Electronic Filing (ELF) Program) of their obligations to the Internal Revenue Service, taxpayers, and other participants. The following returns can be filed under the Form 1040 IRS *e-file* Program: (1) Form 1040 and Form 1040A, U.S. Individual Income Tax Return; and (2) Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents. This revenue procedure updates and supersedes Rev. Proc. 97-60, 1997-52 I.R.B. 38.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 1.6012-5 of the Income Tax Regulations provides that the Commissioner may authorize the use, at the option of a person required to make a return, of a composite return in lieu of any form specified in 26 CFR Part 1 (Income Tax), subject to the conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.02 For purposes of this revenue procedure, an electronically filed Form 1040,

Form 1040A, or Form 1040EZ is a composite return consisting of electronically transmitted data and certain paper documents. The paper portion of the return consists of Form 8453, U.S. Individual Income Tax Declaration for an IRS *e-file* Return, and other paper documents that cannot be electronically transmitted. Form 8453 must be received by the Service before the composite return is considered filed (see section 5.08 of this revenue procedure). The composite return must contain the same information that a return filed completely on paper contains. See section 7 of this revenue procedure for procedures for completing Form 8453.

.03 Each year prior to the start of the filing season, the Service will issue Publication 1345A, Filing Season Supplement for Electronic Return Originators, and Publication 1346, Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns. These publications list the forms and schedules associated with the Form 1040 series that can be electronically transmitted during the upcoming filing season.

.04 For purposes of the Form 1040 IRS *e-file* Program, a Form 1040, Form 1040A, or Form 1040EZ for any taxable year cannot be electronically filed after the 15th day of October following the close of that taxable year, notwithstanding the fact that the taxpayer has been granted an extension to file a return beyond that date. If the 15th day of October falls on a Saturday, Sunday, or legal holiday, then the electronically filed return may be filed on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

.05 An amended tax return cannot be electronically filed under the Form 1040 IRS *e-file* Program. A taxpayer must file an amended tax return on paper in accordance with the instructions for Form 1040X, Amended U.S. Individual Income Tax Return.

.06 A tax return that has a foreign address for the taxpayer cannot be electronically filed under the Form 1040 IRS *e-file* Program. Army/Air Force (APO) and Fleet (FPO) post offices are not considered foreign addresses for this purpose.

.07 A tax return for a decedent cannot be electronically filed under the Form 1040 IRS *e-file* Program. The decedent's spouse or personal representative must file a paper tax return for the decedent.

.08 Some of the updates and changes to Rev. Proc. 97-60 are as follows:

(1) the name of the program has changed to the “Form 1040 IRS *e-file* Program” and participants in the program are known as “Authorized IRS *e-file* Providers”;

(2) references to specific dates and specific tax years have been replaced with more general references in order to eliminate the need for annual updates to this revenue procedure;

(3) the application period for new applicants who intend to participate in the Form 1040 IRS *e-file* Program for any filing season is extended beyond the beginning of the filing season (section 4.05); and

(4) the provisions of this revenue procedure apply to participants in various pilot programs conducted with respect to the Form 1040 IRS *e-file* Program (section 18).

SECTION 3. FORM 1040 IRS *e-file* PROGRAM PARTICIPANTS—DEFINITIONS

.01 After acceptance into the Form 1040 IRS *e-file* Program, as described in section 4 of this revenue procedure, a participant is referred to as an “Authorized IRS *e-file* Provider.”

.02 The Authorized IRS *e-file* Provider categories are:

(1) **ELECTRONIC RETURN ORIGINATOR.** An “Electronic Return Originator” (ERO) is: (a) an “Electronic Return Preparer” who prepares tax returns, including Forms 8453, for taxpayers who intend to have their returns electronically filed; and/or (b) an “Electronic Return Collector” who accepts completed tax returns, including Forms 8453, from taxpayers who intend to have their returns electronically filed.

(2) **SERVICE BUREAU.** A “Service Bureau” receives tax return information on any media from an ERO, formats the return information, and either forwards the return information to a Transmitter or sends back the return information to the ERO. A Service Bureau may send Forms 8453 to the appropriate service center.

(3) **SOFTWARE DEVELOPER.** A “Software Developer” develops software for the purposes of (a) formatting the electronic portion of returns according to Publication 1346; and/or (b) transmitting

the electronic portion of returns directly to the Service. A Software Developer may also sell its software.

(4) **TRANSMITTER.** A “Transmitter” transmits the electronic portion of a return directly to the Service. An entity that provides a “bump-up” service is a Transmitter. A bump-up service provider increases the transmission rate or line speed of formatted or reformatted information that is being sent to the Service via a public switched telephone network. The Service accepts transmissions using a variety of telecommunications protocols.

.03 The Authorized IRS *e-file* Provider categories are not mutually exclusive. For example, an ERO can, at the same time, be considered a Transmitter, Software Developer, or Service Bureau depending on the function(s) performed.

.04 An ERO may have a “Drop-Off Collection Point(s).” The activity at a Drop-Off Collection Point is limited solely to receiving a return or return information that a taxpayer wants to have electronically filed and collecting a fee for electronically filing that return. Return preparation activity may not be conducted at a Drop-Off Collection Point. Return preparation activity includes, but is not limited to, comparing amounts listed on Form 8453 with those on the paper return or return information provided by a taxpayer and verifying routing numbers and account numbers used for direct deposit of refunds. Return preparation activity does not include collecting a fee for electronic filing or ensuring that the taxpayer has signed Form 8453. An ERO need not have an ownership interest in the Drop-Off Collection Point.

SECTION 4. ACCEPTANCE IN THE FORM 1040 IRS *e-file* PROGRAM

.01 Except as provided in sections 4.02 through 4.04 of this revenue procedure, an Electronic Filer or Authorized IRS *e-file* Provider that participated in the most recent Form 1040 ELF or Form 1040 IRS *e-file* filing season does not have to reapply to participate in the next Form 1040 IRS *e-file* filing season. However, an Authorized IRS *e-file* Provider that intends to participate as a Transmitter or a Software Developer must first successfully complete, for each filing season, the testing referred to in section 4.08 of this revenue procedure. In addition, sec-

tion 4.15 of this revenue procedure provides for the Service’s issuance of credentials necessary for participation in the Form 1040 IRS *e-file* Program.

.02 Applicants and Authorized IRS *e-file* Providers must file a new Form 8633, Application to Participate in the IRS *e-file* Program, with completed fingerprint cards for the appropriate individuals, if:

(1) the applicant has never participated in the Form 1040 ELF Program or the Form 1040 IRS *e-file* Program;

(2) the applicant has previously been denied participation in the Form 1040 ELF Program or the Form 1040 IRS *e-file* Program;

(3) the applicant has been suspended from the Form 1040 ELF Program or the Form 1040 IRS *e-file* Program; or

(4) the Authorized IRS *e-file* Provider is participating in the Form 1040 IRS *e-file* Program and wants to operate an IRS *e-file* business at an additional location (except that an individual listed on the Authorized IRS *e-file* Provider’s application who has submitted a fingerprint card with a previously accepted application need not submit an additional fingerprint card).

.03 An Authorized IRS *e-file* Provider must submit a revised Form 8633, signed by all “Principals” and the “Responsible Official” (as described in sections 4.09 through 4.12 of this revenue procedure), with completed fingerprint cards for those appropriate individuals who have not submitted a fingerprint card with a previously accepted application, if:

(1) the Authorized IRS *e-file* Provider participated solely as a Software Developer in the most recent Form 1040 ELF or Form 1040 IRS *e-file* filing season, and intends to participate as an ERO, Service Bureau, or Transmitter;

(2) there is an additional Principal, such as a partner or a corporate officer, that must be listed on Form 8633;

(3) there is a Principal listed on Form 8633 that should be deleted; or

(4) the Responsible Official on Form 8633 changes.

.04 Except as provided in section 4.03 of this revenue procedure, an Authorized IRS *e-file* Provider must submit either a revised Form 8633, or a letter containing the same information contained in a revised Form 8633, if any information on the Au-

thorized IRS *e-file* Provider's Form 8633 has changed. A revised Form 8633 or letter submitted under this section should include only the changed information and the following identifying information:

(1) the Authorized IRS *e-file* Provider's legal name;

(2) the Authorized IRS *e-file* Provider's employer identification number and/or social security number (EIN/SSN);

(3) the Authorized IRS *e-file* Provider's "Doing Business As" (DBA) name;

(4) whether the Authorized IRS *e-file* Provider is controlled or owned by another Authorized IRS *e-file* Provider;

(5) the Authorized IRS *e-file* Provider's controlling office name;

(6) the Electronic Transmitter Identification Number (ETIN) of the Authorized IRS *e-file* Provider's controlling office;

(7) the Electronic Filing Identification Number (EFIN) of the Authorized IRS *e-file* Provider's controlling office; and

(8) the business address of the Authorized IRS *e-file* Provider's controlling office.

A Principal or the Responsible Official must sign the revised Form 8633 or the letter.

.05 Applicants and Authorized IRS *e-file* Providers described in section 4.02 of this revenue procedure must submit new applications within the following time periods:

(1) except as provided in section 4.05(2) of this revenue procedure, the application period for new applicants who intend to participate in the Form 1040 IRS *e-file* Program for any filing season begins on the 1st day of August preceding the filing season and continues into the filing season (see the Form 8633 instructions for the last date to file a new application); however, applications submitted after the 1st day of December preceding the filing season may not be processed in time for the applicant to participate in the Form 1040 IRS *e-file* Program by the start of the filing season; and

(2) if an applicant purchases an existing Authorized IRS *e-file* Provider's business, a new application and proof of sale must be submitted during the period beginning 45 days before, and ending 30 days after, the date of the purchase.

.06 Revised applications described in sections 4.03 and 4.04 of this revenue procedure must be submitted within 30 days of the change(s) reflected on the revised Form 8633 or in the letter. Authorized IRS *e-file* Providers that fail to submit revised applications may be temporarily dropped from the Form 1040 IRS *e-file* Program.

.07 Applicants and Authorized IRS *e-file* Providers described in sections 4.02 through 4.04 of this revenue procedure must file Form 8633 (or a letter as provided in section 4.04 of this revenue procedure) with the Application Processing Center at the address listed in the instructions for Form 8633.

.08 Applicants and Authorized IRS *e-file* Providers described in sections 4.01 through 4.04 of this revenue procedure that intend to participate as a Transmitter or a Software Developer in the Form 1040 IRS *e-file* Program must first successfully complete the necessary testing at the appropriate service center(s). Such testing must be completed for each filing season during which the applicant or Authorized IRS *e-file* Provider intends to participate as a Transmitter or Software Developer.

.09 Each individual listed as a Principal or a Responsible Official on a Form 8633 must:

(1) be a United States citizen or an alien lawfully admitted for permanent residence as described in 8 U.S.C. § 1101(a)(20) (1994);

(2) have attained the age of 21 as of the date of application;

(3) submit with Form 8633 one standard fingerprint card with a full set of fingerprints taken by a law enforcement agency, except as provided in section 4.13 of this revenue procedure;

(4) except as provided in section 4.17 of this revenue procedure, pass a suitability check that includes a credit check, a tax compliance check, and a fingerprint check; and

(5) meet any applicable state and local licensing and/or bonding requirements in connection with the preparation of tax returns and the collection of prepared returns that taxpayers intend to have electronically filed. However, if the state and local licensing and/or bonding requirements apply to a business entity, the individual(s) must demonstrate that the business entity meets the requirements.

.10 A Principal for a firm or organization includes the following:

(1) Sole Proprietorship. The sole proprietor is the Principal for a sole proprietorship.

(2) Partnership. Each partner who has a 5 percent or more interest in the partnership is a Principal of the partnership. If no partner has at least a 5 percent or more interest in the partnership, the Principal is an individual authorized to act for the partnership in legal and/or tax matters (at least one such individual must be listed on Form 8633).

(3) Corporation. The President, Vice-President, Secretary, and Treasurer of the corporation are each a Principal of the corporation.

(4) Other. The Principal for a for-profit entity that is not a sole proprietorship, partnership, or corporation, is an individual authorized to act for the entity in legal and/or tax matters (at least one such individual must be listed on Form 8633).

.11 A Responsible Official is the individual who oversees the daily operations of an Authorized IRS *e-file* Provider's office. A Responsible Official may also be a Principal. As set forth in section 4.12 of this revenue procedure, a Responsible Official may be responsible for more than one office.

.12 The Responsible Official categories are:

(1) TIER I RESPONSIBLE OFFICIAL. A "Tier I Responsible Official" is a Responsible Official who does not meet the definition of a "Tier II Responsible Official." A Tier I Responsible Official should be able to visit on a daily basis each office for which he or she is listed as a Responsible Official. A Tier I Responsible Official may be listed on a maximum of ten applications (Forms 8633).

(2) TIER II RESPONSIBLE OFFICIAL. A "Tier II Responsible Official" is an individual who has participated in the Form 1040 ELF Program or Form 1040 IRS *e-file* Program as a Responsible Official during at least the two most recent filing seasons and who has never been suspended from participation in the Form 1040 ELF Program or Form 1040 IRS *e-file* Program. A Tier II Responsible Official should be able to visit on a daily basis any office for which he or she is listed as a Responsible Official. A Tier II Responsible Official may be listed on a maxi-

num of twenty applications (Forms 8633).

.13 In lieu of a standard fingerprint card, an individual may choose to submit evidence that the individual is:

(1) an attorney in good standing of the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia, and is not currently under suspension or disbarment from practice before the Service or the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia;

(2) a certified public accountant who is duly qualified to practice as a certified public accountant in any State, Commonwealth, possession, territory, or the District of Columbia, and is not currently under suspension or disbarment from practice before the Service or whose license to practice is not currently suspended or revoked by any State, Commonwealth, possession, territory, or the District of Columbia;

(3) an enrolled agent pursuant to part 10 of 31 C.F.R. Subtitle A;

(4) an officer of a publicly held corporation; or

(5) a banking official who is bonded and has been fingerprinted within the last two years.

.14 If an Authorized IRS *e-file* Provider has a foreign location, the state-side contact representative will receive all Service correspondence for the foreign location relating to the Form 1040 IRS *e-file* Program.

.15 The Service will issue credentials each year to eligible applicants, Authorized IRS *e-file* Providers that do not have to reapply pursuant to section 4.01 of this revenue procedure, and Authorized IRS *e-file* Providers that comply with section 4.03 or 4.04 of this revenue procedure, provided they have first satisfactorily completed the testing described in section 4.08 of this revenue procedure if they intend to participate as a Transmitter or Software Developer. No one may participate in the Form 1040 IRS *e-file* Program without the following credentials:

(1) a letter of acceptance into the Form 1040 IRS *e-file* Program;

(2) an EFIN or a Service Bureau Identification Number (SBIN);

(3) if appropriate, an ETIN; and

(4) if appropriate, a Collection Point Identification Number (CPIN).

.16 The Service will not issue a letter of acceptance to an ERO to participate in any Form 1040 IRS *e-file* filing season if the Service did not receive and accept during the immediately preceding filing season any electronically filed returns containing the ERO's EFIN. In addition, an ERO who has been issued a letter of acceptance for any filing season may be dropped from the Form 1040 IRS *e-file* Program if the Service does not receive and accept, prior to the 15th day of April of that filing season, any electronically filed returns containing the ERO's EFIN. In either case, the Service will notify the ERO that it has been dropped from the Form 1040 IRS *e-file* Program and explain what steps the ERO needs to take for future participation in the program.

.17 If an Authorized IRS *e-file* Provider is a Software Developer that performs no other function in the Form 1040 IRS *e-file* Program but software development, no Principal or Responsible Official needs to pass a suitability check.

.18 If an ERO will have a Drop-Off Collection Point(s) (as defined in section 3.04 of this revenue procedure), the ERO must submit a Form 8633 that lists each Drop-Off Collection Point. By listing a Drop-Off Collection Point on Form 8633, an ERO becomes a "parent" in relation to a listed Drop-Off Collection Point.

.19 The Service may reject an application to participate in the Form 1040 IRS *e-file* Program for the following reasons (this list is not all-inclusive). These reasons apply to any firm, organization, Principal, or Responsible Official listed on Form 8633:

(1) conviction of any criminal offense under the revenue laws of the United States, or of any offense involving dishonesty or breach of trust;

(2) failure to file timely and accurate tax returns, including returns indicating that no tax is due (unless the applicant did not have a legal filing requirement);

(3) failure to timely pay any tax liabilities;

(4) assessment of any tax penalties;

(5) suspension/disbarment from practice before the Service;

(6) disreputable conduct or other facts that would reflect adversely on the Form 1040 IRS *e-file* Program;

(7) misrepresentation on an application;

(8) suspension or rejection from the program in a prior year;

(9) unethical practices in return preparation;

(10) assessment against the applicant of a penalty under § 6695(g) of the Internal Revenue Code;

(11) stockpiling returns prior to official acceptance into the Form 1040 IRS *e-file* Program (see section 5.14 of this revenue procedure);

(12) knowingly and directly or indirectly employing or accepting assistance from any firm, organization, or individual that is prohibited from applying to participate in the Form 1040 IRS *e-file* Program (see section 14.09 of this revenue procedure) or that is suspended from participating in the Form 1040 IRS *e-file* Program (see section 13.11 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the Form 1040 ELF Program or the Form 1040 IRS *e-file* Program; or

(13) knowingly and directly or indirectly accepting employment as an associate, correspondent, or as a subagent from, or sharing fees with, any firm, organization, or individual that is prohibited from applying to participate in the Form 1040 IRS *e-file* Program (see section 14.09 of this revenue procedure) or that is suspended from participating in the Form 1040 IRS *e-file* Program (see section 13.11 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the Form 1040 ELF Program or the Form 1040 IRS *e-file* Program.

SECTION 5. RESPONSIBILITIES OF AN AUTHORIZED IRS *e-file* PROVIDER

.01 To ensure that complete returns are accurately and efficiently filed, an Authorized IRS *e-file* Provider must comply with all publications and notices of the Service relating to the Form 1040 IRS *e-file* Program. The Service will from time to time update such publications and notices to reflect changes to the program. It is the responsibility of the Authorized IRS *e-file* Provider to ensure that it com-

plies with the latest version of all publications and notices. The publications and notices governing the Form 1040 IRS *e-file* Program include:

(1) Publication 1345, Handbook for Electronic Return Originators of Individual Income Tax Returns, and Publication 1345A;

(2) Publication 1346;

(3) Publication 1436, Test Package for Electronic Filing of Individual Income Tax Returns; and

(4) Postings to the Electronic Filing System Bulletin Board (EFS Bulletin Board) and the IRS "Digital Daily" web site at:

<http://www.irs.ustreas.gov>

on the Internet;

.02 An Authorized IRS *e-file* Provider must maintain a high degree of integrity, compliance, and accuracy.

.03 An Authorized IRS *e-file* Provider may accept returns for the Form 1040 IRS *e-file* Program only from the taxpayer filing the return, Drop-Off Collection Points as listed on the ERO's Form 8633 (see section 4.18 of this revenue procedure), or from another Authorized IRS *e-file* Provider.

.04 If the taxpayer's address on a Form W-2, Wage and Tax Statement, Form W-2G, Statement for Recipients of Certain Gambling Winnings, Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., Form 1040, Schedule C, Profit or Loss From Business (Sole Proprietorship), or Form 1040, Schedule C-EZ, Profit or Loss From Business - Short Version, or any other tax form is different than the taxpayer's address in the entity section of the electronic portion of the taxpayer's Form 1040, the ERO or the Service Bureau must input for transmission to the Service those addresses that differ from the taxpayer's address on the electronic portion of the taxpayer's Form 1040.

.05 If an Authorized IRS *e-file* Provider charges a fee for the transmission of the electronic portion of a tax return, the fee may not be based on a percentage of the refund amount or any other amount from the tax return. An Authorized IRS *e-file* Provider may not charge a separate fee for Direct Deposit. See section 9 of this revenue procedure.

.06 An Authorized IRS *e-file* Provider

must submit a revised Form 8633 (or a letter as provided in section 4.04 of this revenue procedure) to the Application Processing Center within 30 days of when any of the conditions or changes described in section 4.03 or 4.04 of this revenue procedure occur. See section 4.06 of this revenue procedure.

.07 An Authorized IRS *e-file* Provider must notify the Application Processing Center (at the address listed in the instructions for Form 8633) within 30 days of discontinuing its participation in the Form 1040 IRS *e-file* Program. This does not preclude reapplication in the future.

.08 An Authorized IRS *e-file* Provider must ensure that it promptly processes returns submitted to it for electronic filing. See sections 5.14, 5.15, 5.16, and 7.01 of this revenue procedure. However, an Authorized IRS *e-file* Provider that receives a return for electronic filing on or before the due date of the return must ensure that the electronic portion of the return is transmitted on or before that due date (including extensions). An electronically filed return is not considered filed until the electronic portion of the tax return has been acknowledged by the Service as accepted for processing and a completed and signed Form 8453 has been received by the Service. However, if the electronic portion of a return is successfully transmitted on or shortly before the due date and the Authorized IRS *e-file* Provider complies with section 7.01 of this revenue procedure, the return will be deemed timely filed. If the electronic portion of a return is transmitted on or shortly before the due date and is ultimately rejected, but the Authorized IRS *e-file* Provider and the taxpayer comply with section 5.13 of this revenue procedure, the return will be deemed timely filed. For a balance due return, see section 11 of this revenue procedure for instructions on how to make a timely payment of tax.

.09 An Authorized IRS *e-file* Provider that functions as an ERO must:

(1) comply with the procedures for completing and securing Forms 8453 described in section 7 of this revenue procedure;

(2) comply with the procedures described in section 11 of this revenue procedure for handling a balance due return;

(3) while returns are being filed by the ERO, retain and make available to the

Service upon request the following material at the business address from which a return was accepted for electronic filing:

(a) a copy of the signed Form 8453 and paper copies of Forms W-2, W-2G, and 1099-R;

(b) a complete copy of the electronic portion of the return (which may be retained on magnetic media) that can be readily and accurately converted into an electronic transmission that the Service can process; and

(c) the acknowledgement file (stating that the Service accepts the electronic portion of the taxpayer's return for processing) received from the Service or from a third party Transmitter; and

(4) retain until the end of the calendar year in which a return was filed, and make available to the Service upon request the materials described in section 5.09(3) of this revenue procedure at either the business address from which a return was electronically filed or from the contact representative named on Form 8633.

.10 An ERO who is the paid preparer of an electronic tax return must also retain for the prescribed amount of time the materials described in § 1.6107-1(b) that are required to be kept by an income tax return preparer.

.11 An ERO must identify the paid preparer (if any) in the appropriate field of the electronic portion of the return and ensure that the paid preparer signed Form 8453. If Form 8453 is not signed by the paid preparer, the ERO must attach to Form 8453 a copy of pages 1 and 2 of the Form 1040EZ, Form 1040A, or Form 1040 signed by the paid preparer. These copies must be marked "COPY-DO NOT PROCESS" to prevent duplicate filings.

.12 An ERO must ensure against the unauthorized use of its EFIN and, if applicable, the CPIN(s) issued to its Drop-Off Collection Point(s). An ERO must not transfer its EFIN or the CPIN(s) of its Drop-Off Collection Point(s) by sale, merger, loan, gift, or otherwise to another entity.

.13 If the Service rejects the electronic portion of a taxpayer's return (the Service states that it rejects the electronic portion of a taxpayer's return for processing in the acknowledgment file), and the reason for the rejection cannot be rectified by the actions described in section 6.02(3) of this revenue procedure, the ERO, within

24 hours of receiving the rejection, must take reasonable steps to inform the taxpayer that the taxpayer's return has not been filed. When the ERO advises the taxpayer that the taxpayer's return has not been filed, the ERO must provide the taxpayer with the reject code(s), an explanation of the reject code(s), and the sequence number of each reject code(s) (see Publication 1345A). If the taxpayer chooses not to have the electronic portion of the return corrected and transmitted to the Service, or if the electronic portion of the return cannot be accepted for processing by the Service, the taxpayer must file a paper return by the later of:

- (1) the due date of the return; or
- (2) ten calendar days after the date the Service gives notification that the electronic portion of the return is rejected or that the electronic portion of the return cannot be accepted for processing.

The paper return should include an explanation of why the return is being filed after the due date.

.14 An ERO is responsible for ensuring that stockpiling does not occur at its office(s) or Drop-Off Collection Point(s). Stockpiling means collecting returns from taxpayers or from another Authorized IRS *e-file* Provider prior to official acceptance into the Form 1040 IRS *e-file* Program, or, after official acceptance into the Form 1040 IRS *e-file* Program, waiting more than three calendar days to send a return to the Service after receiving the information necessary for transmission of the electronic portion of a tax return.

.15 An Authorized IRS *e-file* Provider that participates as a Service Bureau must:

- (1) deliver all electronic returns to a Transmitter or to the ERO who gave the electronic returns to the Service Bureau within three calendar days of receipt;

- (2) retrieve the acknowledgement file from the Transmitter within one calendar day of receipt by the Transmitter;

- (3) send the acknowledgement file to the ERO (whether related or not) within one work day of retrieving the acknowledgement file;

- (4) if the Service Bureau processes Forms 8453, send back to the ERO any return and Form 8453 that needs correction, unless the correction is described in section 6.02(3) of this revenue procedure;

- (5) accept tax return information only from Authorized IRS *e-file* Providers;

- (6) include its SBIN and the ERO's EFIN with all return information the Service Bureau forwards to a Transmitter or sends back to an ERO;

- (7) retain each acknowledgement file received from a Transmitter until the end of the calendar year in which the electronic return was filed;

- (8) if requested, serve as a contact point between its client EROs and the Service;

- (9) if requested, provide the Service with a list of each client ERO; and

- (10) ensure against the unauthorized use of its SBIN. A Service Bureau must not transfer its SBIN by sale, merger, loan, gift, or otherwise to another entity.

.16 An Authorized IRS *e-file* Provider that participates as a Transmitter must:

- (1) send to the Service all electronic portions of returns within three calendar days of receipt;

- (2) retrieve the acknowledgement file within two work days of transmission;

- (3) match the acknowledgement file to the original transmission file and send the acknowledgement file to the ERO or the Service Bureau (whether or not the ERO or the Service Bureau are related to the Transmitter) within two work days of retrieving the acknowledgement file;

- (4) retain an acknowledgement file received from the Service until the end of the calendar year in which the electronic return was filed;

- (5) immediately contact the appropriate service center for further instructions if an acknowledgement of acceptance for processing has not been received by the Transmitter within two work days of transmission or if a Transmitter receives an acknowledgement for a return that was not transmitted on the designated transmission;

- (6) promptly correct any transmission error that causes an electronic transmission to be rejected;

- (7) contact the service center that rejected the electronic portion of the return for assistance if that portion of the return has been rejected after three transmission attempts;

- (8) ensure the security of all transmitted data;

- (9) ensure against the unauthorized use of its EFIN or ETIN. A Transmitter must not transfer its EFIN or ETIN by sale, merger, loan, gift, or otherwise to another entity; and

- (10) not use software that has a Service assigned production password built into the software.

.17 A Transmitter must accept electronic returns for transmission to the Service only from Authorized IRS *e-file* Providers. A Transmitter must include the ERO's EFIN and if applicable, the CPIN on each return that the Transmitter accepts from an ERO. In addition, a Transmitter must also include a Service Bureau's SBIN if a Service Bureau formats the return information.

.18 An Authorized IRS *e-file* Provider that participates as a Software Developer must:

- (1) promptly correct any software error which causes the electronic portion of a return to be rejected;

- (2) promptly distribute any software correction;

- (3) ensure that any software package that will be used to transmit electronic portions of returns from multiple Authorized IRS *e-file* Providers has the capability of combining returns from these Authorized IRS *e-file* Providers into one Service transmission file taking into account the sorting requirements of the Declaration Control Number (DCN);

- (4) ensure that no other entity uses the Software Developer's EFIN or ETIN. A Software Developer must not transfer by sale, merger, loan, gift, or otherwise its EFIN or ETIN to another entity; and

- (5) not incorporate into its software a Service assigned production password.

.19 An ERO with a Drop-Off Collection Point must clearly display its name at each Drop-Off Collection Point. The Service will hold the ERO responsible for any violation of the advertising standards described in section 12 or any other violation of this revenue procedure that occurs at a Drop-Off Collection Point listed on the ERO's Form 8633. The ERO must also serve as the contact point between the Service and the Drop-Off Collection Point for all correspondence including problem resolution and report evaluation.

.20 In addition to the specific responsibilities described in this section, an Au-

thorized IRS *e-file* Provider must meet all the requirements in this revenue procedure to retain the privilege of participating in the Form 1040 IRS *e-file* Program.

SECTION 6. PENALTIES

.01 *Penalties for Disclosure or Use of Information.*

(1) An Authorized IRS *e-file* Provider, except a Software Developer, is a tax return preparer (Preparer) under the definition of § 301.7216-1(b) of the Regulations on Procedure and Administration. A Preparer is subject to a criminal penalty for unauthorized disclosure or use of tax return information. See § 7216 of the Internal Revenue Code and § 301.7216-1(a). In addition, § 6713 establishes civil penalties for unauthorized disclosure or use of tax return information.

(2) Under § 301.7216-2(h), disclosure of tax return information among Authorized IRS *e-file* Providers for the purpose of preparing a return is permissible. For example, an ERO may pass on tax return information to a Service Bureau and/or a Transmitter for the purpose of having an electronic return formatted and transmitted to the Service. However, if the tax return information is disclosed or used in any other way, a Service Bureau and/or a Transmitter may be subject to the penalties described in section 6.01(1) of this revenue procedure.

.02 *Other Preparer Penalties.*

(1) Preparer penalties may be asserted against an individual or firm meeting the definition of an income tax return preparer under § 7701(a)(36) and § 301.7701-15. Preparer penalties that may be asserted under appropriate circumstances include, but are not limited to, those set forth in §§ 6694, 6695, and 6713.

(2) Under § 301.7701-15(d), Electronic Return Collectors, Service Bureaus, Transmitters, and Software Developers are not income tax return preparers for the purpose of assessing most preparer penalties as long as their services are limited to “typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund.”

(3) If an Electronic Return Collector, Service Bureau, Transmitter, or the product of a Software Developer alters the return information in a nonsubstantive way, this alteration will be considered to come

under the “mechanical assistance” exception described in § 301.7701-15(d)(1). A nonsubstantive change is a correction or change limited to a transposition error, misplaced entry, spelling error, or arithmetic correction that falls within the following tolerances:

(a) the amount of “Total tax”, “Federal income tax withheld”, “Refund”, or “Amount you owe” on Form 8453 differs from the corresponding amount on the electronic portion of the tax return by no more than \$7;

(b) the amount of “Total income” on Form 8453 differs from the corresponding amount on the electronic portion of the tax return by no more than \$25; or

(c) dropping cents and rounding to whole dollars.

(4) If an Electronic Return Collector, Service Bureau, or Transmitter alters the return information in a substantive way, rather than having the taxpayer alter the return, the Electronic Return Collector, Service Bureau, or Transmitter will be considered to be an income tax return preparer for purposes of § 7701(a)(36).

(5) If an Electronic Return Collector, Service Bureau, or Transmitter, or the product of a Software Developer, goes beyond mechanical assistance, any of these parties may be held liable for income tax return preparer penalties. See Rev. Rul. 85-189, 1985-2 C.B. 341 (which describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties).

.03 *Other Penalties.* In addition to the above specified provisions, the Service reserves the right to assert all appropriate preparer, nonpreparer, and disclosure penalties against an Authorized IRS *e-file* Provider as warranted under the circumstances.

SECTION 7. FORM 8453, U.S. INDIVIDUAL INCOME TAX DECLARATION FOR AN IRS *e-file* RETURN

.01 *Procedures for Completing Form 8453.*

(1) Form 8453 must be completed in accordance with the instructions for that form.

(2) The taxpayer(s)’s name, address, social security number(s), and tax return

information in the electronic transmission must be identical to the information on the Form 8453 that the taxpayer(s) signed and provided for submission to the Service.

(3) An Authorized IRS *e-file* Provider, a financial institution, or any other entity associated with the electronic filing of a taxpayer’s return must not put its address in the section reserved for the taxpayer’s address on Form 8453 or anywhere in the electronic portion of a return.

(4) Before the electronic portion of the return is transmitted, the taxpayer must verify the information on the electronic portion of the return and on Form 8453, and must sign Form 8453. Both spouses’ signatures are required on the Form 8453 prior to the electronic transmission of a joint tax return. The taxpayer may verify the information on the electronic portion of the return by viewing this information on a computer display terminal. A taxpayer need not verify the electronic portion of the return prior to its transmission if the taxpayer provided a completed paper return for filing and the information on the electronic portion is identical to the information provided by the taxpayer.

(5) An Authorized IRS *e-file* Provider must submit the taxpayer’s Form 8453 to the service center that acknowledged acceptance of the electronic portion of the return within one work day after the Authorized IRS *e-file* Provider receives the acknowledgment file.

(6) An Authorized IRS *e-file* Provider functioning as an ERO must sign the “Declaration of ERO” on Form 8453.

(7) If the ERO is also the paid preparer, the ERO must check the “Paid Preparer” box and sign the “Declaration of ERO” on Form 8453.

.02 *Corrections to Form 8453.*

(1) A new Form 8453 is not required for a nonsubstantive change. A nonsubstantive change is limited to a correction that does not exceed the tolerances described in section 7.02(2) of this revenue procedure for arithmetic errors, a transposition error, a misplaced entry, or a spelling error. The incorrect nonsubstantive information must be neatly lined through on the Form 8453 and the correct data entered next to the lined-through entry. Also, the individual making the correction must initial the correction.

(2) The tolerances for section 7.02(1) of this revenue procedure are:

(a) the amount of "Total income" does not differ from the amount on the electronic portion of the tax return by more than \$25; or

(b) the amount of "Total tax", "Federal income tax withheld", "Refund", or "Amount you owe" does not differ from the amount on the electronic portion of the tax return by more than \$7.

(3) If the ERO makes a substantive change to the electronic portion of the return after Form 8453 has been signed by the taxpayer, but before it is transmitted, the ERO must have all the necessary parties described above sign a new Form 8453 that reflects the corrections before the electronic portion of the return is transmitted.

(4) Dropping cents or rounding to whole dollars does not constitute a substantive change or alteration to the return unless the amount differs by more than the above tolerances. All rounding should be accomplished in accordance with the instructions in the Form 1040 tax package.

.03 *Missing Form 8453.* If the Service determines that a Form 8453 is missing, the ERO must provide the Service with a replacement. The ERO must also provide a copy of the Form(s) W-2, W-2G, 1099R, and all other attachments to Form 8453.

.04 *Substitute Form 8453.* If a substitute Form 8453 is used, it must be approved by the Service prior to use.

SECTION 8. INFORMATION AN AUTHORIZED IRS *e-file* PROVIDER MUST FURNISH TO THE TAXPAYER

.01 The ERO must furnish the taxpayer with a complete paper copy of the taxpayer's return. However, the copy need not contain the social security number of the paid preparer. See Rev. Rul. 78-317, 1978-2 C.B. 335. A complete copy of a taxpayer's return includes:

(1) Form 8453 and other paper documents that cannot be electronically transmitted; and

(2) a printout of the electronic portion of the return. See section 2.02 of this revenue procedure. The electronic portion of the return can be contained on a replica of an official form or on an unofficial form. How-

ever, on an unofficial form, data entries must be referenced to the line numbers on an official form. Also, a printout of the electronic portion of the return does not have to be provided to the taxpayer if the taxpayer provided a completed paper return for electronic filing and the information on the electronic portion of the return is identical to the information provided by the taxpayer.

.02 The ERO must advise the taxpayer to retain a complete copy of the return and any supporting material.

.03 The ERO must advise the taxpayer that an amended return, if needed, must be filed as a paper return and mailed to the service center that would handle the taxpayer's paper return.

.04 The ERO must, upon request, provide the taxpayer with the DCN and the date the Service acknowledged that the electronic portion of the taxpayer's return was accepted for processing.

.05 The ERO must advise taxpayers of the appropriate IRS TeleTax number to inquire about the status of their tax refund. The ERO should also advise taxpayers to wait at least three weeks from the date the Service acknowledged that the electronic portion of the taxpayer's return was accepted for processing before calling the TeleTax number.

.06 If a taxpayer chooses to use an address other than his or her home address on the return, the ERO must inform the taxpayer that the address on the electronic portion of the return, once processed by the Service, will be used to update the taxpayer's address of record. The Service uses the taxpayer's address of record for various notices that are required to be sent to a taxpayer's "last known address" under the Internal Revenue Code, and for refunds of overpayments of tax (unless otherwise specifically directed by the taxpayer, such as by Direct Deposit).

SECTION 9. DIRECT DEPOSIT OF REFUNDS

.01 The Service will ordinarily process a request for Direct Deposit but reserves the right to issue a paper refund check.

.02 The Service does not guarantee a specific date by which a refund will be directly deposited into the taxpayer's financial institution account.

.03 Neither the Service nor Financial Management Service (FMS) is responsi-

ble for the misapplication of a Direct Deposit that is caused by error, negligence, or malfeasance on the part of the taxpayer, Authorized IRS *e-file* Provider, financial institution, or any of their agents.

.04 An ERO must:

(1) advise taxpayers of the option to receive their refund by paper check or direct deposit;

(2) not charge a separate fee for a Direct Deposit;

(3) accept any Direct Deposit election to any eligible financial institution designated by the taxpayer;

(4) ensure that the taxpayer is eligible to choose Direct Deposit;

(5) caution the taxpayer that once the electronic portion of the return has been accepted for processing by the Service:

(a) the Direct Deposit election cannot be rescinded;

(b) the routing number of the financial institution cannot be changed; and

(c) the taxpayer's account number cannot be changed; and

(6) advise the taxpayer that refund information is available by calling the appropriate IRS TeleTax number. See section 8.05 of this revenue procedure.

SECTION 10. REFUND ANTICIPATION LOANS

.01 A Refund Anticipation Loan (RAL) is money borrowed by a taxpayer that is based on a taxpayer's anticipated income tax refund. The Service has no involvement in RALs. A RAL is a contract between the taxpayer and the lender.

.02 Any entity that is involved in the Form 1040 IRS *e-file* Program, including a financial institution that accepts direct deposits of income tax refunds, has an obligation to every taxpayer who applies for a RAL to clearly explain to the taxpayer that a RAL is in fact a loan, and not a substitute for, or a quicker way of, receiving an income tax refund. An Authorized IRS *e-file* Provider must advise the taxpayer that if a Direct Deposit is not timely, the taxpayer may be liable to the lender for additional interest on the RAL.

.03 An Authorized IRS *e-file* Provider may assist a taxpayer in applying for a RAL.

.04 An Authorized IRS *e-file* Provider may charge a flat fee to assist a taxpayer in applying for a RAL. The fee must be identical for all of the Authorized IRS

e-file Provider's customers and must not be related to the amount of the refund or a RAL. The Authorized IRS *e-file* Provider must not accept a fee from a financial institution for any service connected with a RAL that is contingent upon the amount of the refund or a RAL.

.05 The Service has no responsibility for the payment of any fees associated with the preparation of a return, the transmission of the electronic portion of a return, or a RAL.

.06 An Authorized IRS *e-file* Provider may disclose tax information to the lending financial institution in connection with an application for a RAL only with the taxpayer's written consent as specified in § 301.7216-3(b).

.07 An Authorized IRS *e-file* Provider that is also the return preparer, and the financial institution or other lender that makes an RAL, may not be related taxpayers within the meaning of § 267 or § 707.

.08 Section 6695(f) imposes a \$500 penalty on a return preparer who endorses or negotiates a refund check issued to any taxpayer other than the return preparer. However, a bank, as defined in § 581, may accept the full amount of a refund check as a deposit in the taxpayer's account for the benefit of the taxpayer. Section 1.6695-1(f) clarifies § 6695(f) by explaining that the prohibition on a return preparer negotiating a refund check is limited to a refund check for a return that the return preparer prepared. A preparer that is also a financial institution, but has not made a loan to the taxpayer on the basis of the taxpayer's anticipated refund, may (1) cash a refund check and remit all of the cash to the taxpayer or accept a refund check for deposit in full to a taxpayer's account, provided the bank does not initially endorse or negotiate the check; or (2) endorse a refund check for deposit in full to a taxpayer's account pursuant to a written authorization of the taxpayer. A preparer bank may also subsequently endorse or negotiate a refund check as part of the check-clearing process through the financial system after initial endorsement. Any income tax return preparer that violates this provision may be suspended from the Form 1040 IRS *e-file* Program.

SECTION 11. BALANCE DUE RETURNS

.01 All service centers that accept electronically filed returns will accept electronically filed balance due returns.

.02 Taxpayers who file balance due returns under the Form 1040 IRS *e-file* Program for any taxable year are responsible for making full and timely payment of any tax that is due. Failure to make full payment on or before the due date of the return (determined without regard to extensions) will result in the imposition of interest and may result in the imposition of penalties.

.03 Taxpayers have several options for paying balances due, including the following:

(1) DIRECT DEBIT. Taxpayers may authorize the Service to debit their checking or savings account for the amount of the balance due;

(2) PAY BY CHECK. Taxpayers may pay any balance due by sending a check, along with Form 1040-V, Payment Voucher, to the Service. The Authorized IRS *e-file* Provider must furnish Form 1040-V to any taxpayer paying a balance due by check; and

(3) INSTALLMENT AGREEMENT. Taxpayers who cannot pay the balance due with the return may request an installment payment arrangement by filing Form 9465, Installment Agreement Request, with their return.

SECTION 12. ADVERTISING STANDARDS FOR AUTHORIZED IRS *e-file* PROVIDERS AND FINANCIAL INSTITUTIONS

.01 An Authorized IRS *e-file* Provider must comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. Any claims concerning faster refunds by virtue of electronic filing must be consistent with the language in official Service publications.

.02 An Authorized IRS *e-file* Provider must adhere to all relevant federal, state,

and local consumer protection laws that relate to advertising and soliciting.

.03 An Authorized IRS *e-file* Provider must not use the Service's name, "Internal Revenue Service" or "IRS", within a firm's name. However, once accepted into the Form 1040 IRS *e-file* Program, a participant may represent itself as an "Authorized IRS *e-file* Provider."

.04 An Authorized IRS *e-file* Provider must not use improper or misleading advertising in relation to the Form 1040 IRS *e-file* Program (including the time frames for refunds and RALs).

.05 An Authorized IRS *e-file* Provider using promotional materials or logos provided by the Service must comply with all Service instructions pertaining to the promotional materials or logos.

.06 An Authorized IRS *e-file* Provider using the Direct Deposit name and logo must comply with the following:

(1) The name "Direct Deposit" will be used with initial capital letters or all capital letters;

(2) The logo/graphic for Direct Deposit will be used whenever feasible in advertising copy; and

(3) The color or size of the Direct Deposit logo/graphic may be changed when used in advertising pieces.

.07 Advertising materials must not carry the FMS, IRS, or other Treasury Seals.

.08 Advertising for a cooperative electronic return filing project (public/private sector) must clearly state the names of all cooperating parties.

.09 In advertising the availability of a RAL, an Authorized IRS *e-file* Provider and a financial institution must clearly (and, if applicable, in easily readable print) refer to or describe the funds being advanced as a loan, not a refund; that is, it must be made clear in the advertising that the taxpayer is borrowing against the anticipated refund and not obtaining the refund itself from the financial institution.

.10 If an Authorized IRS *e-file* Provider uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The Authorized IRS *e-file* 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.

.11 If an Authorized IRS *e-file* Provider uses direct mail or fax communications to advertise, the Authorized IRS *e-file* Provider must retain a copy of the actual mailing 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.

.12 Acceptance to participate in the Form 1040 IRS *e-file* Program does not imply endorsement by the Service, FMS, or the Treasury Department of the software or quality of services provided.

SECTION 13. MONITORING AND SUSPENSION OF AN AUTHORIZED IRS *e-file* PROVIDER

.01 The Service will monitor an Authorized IRS *e-file* Provider for conformity with this revenue procedure. Before suspending an Authorized IRS *e-file* Provider, the Service may issue a warning letter that describes specific corrective action for deviations from this revenue procedure. However, the Service can immediately suspend, without notice, an Authorized IRS *e-file* Provider from the Form 1040 IRS *e-file* Program. In most circumstances, a suspension from participation in the Form 1040 IRS *e-file* Program is effective as of the date of the letter informing the Authorized IRS *e-file* Provider of the suspension.

.02 If a Principal or Responsible Official is suspended from the Form 1040 IRS *e-file* Program, every entity that listed the suspended Principal or Responsible Official on its Form 8633 may also be suspended.

.03 The Service will monitor the Authorized *e-file* Provider's compliance with the provisions of section 6695(g) (relating to the due diligence requirements for returns claiming the earned income credit).

.04 The Service will monitor the timely receipt of Forms 8453, as well as their overall legibility.

.05 The Service will monitor the quality of an Authorized IRS *e-file* Provider's transmissions throughout the filing season. The Service will also monitor the electronic portion of returns and tabulate rejections, errors, and other defects. If quality deteriorates, the Authorized IRS *e-file* Provider will receive a warning from the Service.

.06 The Service will monitor Drop-Off Collection Points and advise a parent of any Form 1040 IRS *e-file* Program violations the Service has encountered with a parent's Drop-Off Collection Point. If a parent fails to correct a Drop-Off Collection Point problem, the parent will be required to eliminate that Drop-Off Collection Point. Failure to take corrective action or eliminate a Drop-Off Collection Point may cause the Service to suspend the parent from participating in the Form 1040 IRS *e-file* Program.

.07 The Service will monitor complaints about an Authorized IRS *e-file* Provider and issue a warning or suspension letter as appropriate.

.08 The Service reserves the right to suspend an Authorized IRS *e-file* Provider from participation in the Form 1040 IRS *e-file* Program for violating any provision of this revenue procedure. Generally, the Service will advise a suspended Authorized IRS *e-file* Provider concerning the requirements for reacceptance into the Form 1040 IRS *e-file* Program. The following reasons may lead to a warning letter and/or suspension of an Authorized IRS *e-file* Provider from the Form 1040 IRS *e-file* Program (this list is not all-inclusive):

(1) the reasons listed in section 4.19 of this revenue procedure;

(2) deterioration in the format of individual transmissions;

(3) unacceptable cumulative error or rejection rate;

(4) untimely received, illegible, incomplete, missing, or unapproved substitute Forms 8453;

(5) stockpiling returns at any time while participating in the Form 1040 IRS *e-file* Program;

(6) failure on the part of a Transmitter to retrieve acknowledgement files within two work days of transmission by the Service;

(7) failure on the part of a Transmitter to provide an ERO or Service Bureau with acknowledgement files within two work days after receipt from the Service;

(8) significant complaints about an Authorized IRS *e-file* Provider's performance in the Form 1040 IRS *e-file* Program;

(9) failure on the part of an Authorized IRS *e-file* Provider to ensure against the unauthorized use of its EFIN and/or ETIN;

(10) having more than one EFIN for the same business entity at the same location (the business entity is generally the entity that reports on its return the income derived from electronic filing), unless the Service has issued more than one EFIN to a business entity at the same location. For example, the Service may issue more than one EFIN to accommodate high volumes of returns;

(11) failure on the part of a Transmitter to include a Service Bureau's SBIN in the transmission of a return submitted by a Service Bureau;

(12) failure on the part of an ERO to include a Drop-Off Collection Point's CPIN as part of a return collected from a Drop-Off Collection Point;

(13) failure on the part of an Authorized IRS *e-file* Provider to cooperate with the Service's efforts to monitor Authorized IRS *e-file* Providers and investigate electronic filing abuse;

(14) failure on the part of an Authorized IRS *e-file* Provider to properly use the standard/non-standard W-2 indicator;

(15) failure on the part of an Authorized IRS *e-file* Provider to properly use the refund anticipation loan (RAL) indicator;

(16) failure on the part of a Service Bureau or a Transmitter to include the ERO's EFIN as part of a return that the ERO submits to the Service Bureau or the Transmitter;

(17) violation of the advertising standards described in section 12 of this revenue procedure;

(18) failure to maintain and make available records as described in section 5.09(4) of this revenue procedure;

(19) accepting a tax return for filing through the Form 1040 IRS *e-file* Program either directly or indirectly from a firm, organization, or individual (other than the taxpayer who is submitting his or her return) that is not an Authorized IRS *e-file* Provider;

(20) submitting the electronic portion of a return with information that is not identical to the information on Form 8453;

(21) failure to timely submit a revised Form 8633 (or a letter containing the same information contained in a revised Form 8633) notifying the Service of changes described in section 4.03 or 4.04 of this revenue procedure; or

(22) failure to comply with a provision of an implementing document for any pilot program in which the Authorized IRS *e-file* Provider is a participant (see section 18 of this revenue procedure).

.09 The Service may list in the Internal Revenue Bulletin, district office listings, district office newsletters, and the EFS Bulletin Board the name and owner(s) of any entity suspended from the Form 1040 IRS *e-file* Program and the effective date of the suspension.

.10 A district director may warn Authorized IRS *e-file* Providers that are using the services of a rejected or a suspended Authorized IRS *e-file* Provider that sections 4.19(12) and (13) of this revenue procedure prohibit a business relationship with a rejected or a suspended Authorized IRS *e-file* Provider. However, in appropriate circumstances, the Service may immediately suspend the Authorized IRS *e-file* Provider without such warning.

.11 If an Authorized IRS *e-file* Provider is suspended from participating in the Form 1040 IRS *e-file* Program, the period of suspension includes the remainder of the calendar year in which the suspension occurs plus the next two calendar years. A suspended participant may submit a new application for the application period immediately preceding the end of the suspension.

SECTION 14. ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE FORM 1040 IRS *e-file* PROGRAM

.01 An applicant that has been denied participation in the Form 1040 IRS *e-file* Program has the right to an administrative review. During the administrative review process, the denial of participation remains in effect.

.02 In response to the submission of a Form 8633, the Application Processing Center will either (1) accept an applicant into the Form 1040 IRS *e-file* Program, or (2) issue a proposed letter of denial that explains to the applicant why the Application Processing Center proposes to reject the application to participate in the Form 1040 IRS *e-file* Program.

.03 An applicant that receives a proposed letter of denial may mail or deliver, within 30 calendar days of the date of the proposed letter of denial, a written re-

sponse to the Application Processing Center. The applicant's response must address the Application Processing Center's reason(s) for proposing the denial to participate.

.04 Upon receipt of an applicant's written response, the Application Processing Center will reconsider its proposed letter of denial. The Application Processing Center may either (1) withdraw its proposed letter of denial and accept the applicant into the Form 1040 IRS *e-file* Program, or (2) finalize the proposed denial letter.

.05 If an applicant receives a final denial letter from the Application Processing Center, the applicant is entitled to an appeal, in writing, to the Director of Practice.

.06 The appeal must be mailed or delivered to the Application Processing Center within 30 calendar days of the date of the final denial letter. An applicant's written appeal must contain a detailed explanation, with supporting documentation, of why the denial should be reversed.

.07 The Application Processing Center will, upon receipt of a written appeal to the Director of Practice, forward to the Director of Practice its file on the applicant and the material described in section 14.06 of this revenue procedure. The Application Processing Center will forward these materials to the Director of Practice within 15 calendar days of receipt of the applicant's written appeal.

.08 Failure to respond within either of the 30-day periods described in sections 14.03 and 14.06 of this revenue procedure irrevocably terminates an applicant's right to an administrative review or appeal.

.09 If an application for participation in the Form 1040 IRS *e-file* Program is denied, the applicant is ineligible to submit a new application for two years from the application date of the denied application.

SECTION 15. ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE FORM 1040 IRS *e-file* PROGRAM

.01 An Authorized IRS *e-file* Provider that has been suspended from participation in the Form 1040 IRS *e-file* Program has the right to an administrative review. During the administrative review process, the suspension remains in effect.

.02 If an Authorized IRS *e-file* Provider receives a suspension letter, the Authorized IRS *e-file* Provider may mail or deliver, within 30 calendar days of the date of the suspension letter, a detailed written explanation, with supporting documentation, of why the suspension letter should be withdrawn. This written response should be sent to the district office or service center that issued the suspension letter.

.03 Upon receipt of the Authorized IRS *e-file* Provider's written response, the district office or service center will reconsider its suspension of the Authorized IRS *e-file* Provider. The district office or service center may either (1) withdraw its suspension letter, or (2) affirm the suspension.

.04 If an Authorized IRS *e-file* Provider receives a letter affirming the suspension, the Authorized IRS *e-file* Provider is entitled to an appeal, in writing, to the Director of Practice.

.05 The appeal must be mailed or delivered to the district office or service center that issued the suspension letter within 30 calendar days of the date of the letter affirming the suspension. The Authorized IRS *e-file* Provider's written appeal must contain detailed reasons, with supporting documentation, for reversal of the suspension.

.06 The district office or service center whose decision to suspend is being appealed will, upon receipt of a written appeal to the Director of Practice, forward its file on the Authorized IRS *e-file* Provider to the Director of Practice. The district office or service center will also forward to the Director of Practice the material described in section 15.05 of this revenue procedure. The district office or the service center will forward these materials within 15 calendar days of the receipt of the Authorized IRS *e-file* Provider's written request for appeal.

.07 Failure to appeal within either of the 30-day periods described in sections 15.02 and 15.05 of this revenue procedure irrevocably terminates an Authorized IRS *e-file* Provider's right to an appeal.

SECTION 16. VITA AND TCE SPONSORED PARTICIPATION IN THE FORM 1040 IRS *e-file* PROGRAM

.01 This revenue procedure applies to VITA (Volunteer Income Tax Assistance) and TCE (Tax Counseling for the Elderly)

sponsors, subject to the exceptions and restrictions described in this section.

.02 For purposes of this section, the District Director may be represented by an individual designated by the District Director such as a District Office Electronic Tax Administration (ETA) Coordinator or a Taxpayer Education Coordinator.

.03 To be accepted in, or to continue participation in, the Form 1040 IRS *e-file* Program, a VITA or TCE sponsor must:

(1) have obtained the District Director's permission (and, in the case of a TCE sponsor, the permission of the Service office that is funding the TCE program) to provide electronic filing; and

(2) have a manual or electronic quality review system for each return to be electronically filed.

.04 The District Director will advise the VITA and TCE sponsor how to submit or transmit returns. Some of the options available to the District Director are:

(1) having the VITA or TCE sponsor submit returns on paper, magnetic disk, or in an electronic transmission to the District Office ETA Coordinator or other locally designated office;

(2) having the VITA or TCE sponsor directly transmit returns to the appropriate service center; or

(3) having the VITA or TCE sponsor use a third party Transmitter.

.05 A VITA or TCE sponsor is not required to sign Form 8453 as ERO. However, if the VITA or TCE sponsor chooses not to sign Form 8453, the VITA or TCE sponsor must otherwise furnish on Form 8453 its VITA or TCE acronym and, if operating from multiple sites, a site designation number.

.06 A VITA or TCE sponsor can only accept a return for electronic filing that is (1) prepared at the VITA or TCE site by a VITA or TCE volunteer, (2) prepared by a taxpayer that meets the criteria for VITA or TCE assistance, or (3) prepared by a paid preparer that meets the criteria for VITA or TCE assistance.

.07 Only returns and accompanying forms and schedules included in a district, VITA, or TCE training course may be accepted for electronic filing by a VITA or TCE sponsor.

.08 A VITA or TCE sponsor and a District Director may enter into an agreement that provides for the retention of copies of tax returns and Forms 8453 by a District

Director. This information must be retained by either the VITA or TCE sponsor or a District Director. This information must not be given to a third party, including a third party Transmitter.

.09 A District Director is responsible for ensuring that Form 8453 is sent to the appropriate district office or service center. However, a District Director may delegate to the VITA or TCE sponsor the responsibility for mailing Form 8453 to the appropriate district office or service center.

.10 A VITA or TCE sponsor may collect a fee only if it is directly related to defraying the actual cost of electronically transmitting a tax return. A VITA or TCE sponsor may also collect this fee on behalf of a third party Transmitter who electronically transmitted a VITA or TCE return.

.11 Before a VITA or TCE sponsor may collect a fee for electronically filing a tax return, the VITA or TCE sponsor must ensure that the taxpayer understands that:

(1) the fee is not for the preparation of the return; and

(2) the VITA or TCE service is offered without regard to either the electronic filing of a return or the collection of a fee.

SECTION 17. EMPLOYER SPONSORED PARTICIPATION IN THE FORM 1040 IRS *e-file* PROGRAM

.01 This revenue procedure applies to an employer who chooses to offer electronic filing as an employee benefit to (1) business owners and spouses, (2) employees and spouses, and/or (3) dependents of business owners and employees, subject to the exceptions and restrictions described in this section.

.02 For purposes of this section, the District Director may be represented by an individual designated by the District Director.

.03 An employer may choose to transmit the electronic portion of returns or may arrange to have them transmitted through a third party. If an employer chooses to transmit from more than one location, the employer must submit a properly completed Form 8633 for each location.

.04 An employer may offer electronic filing as an employee benefit whether the employer chooses to transmit tax returns

or contracts with a third party to transmit the tax returns.

.05 If an employer contracts with a third party to transmit tax returns, the employer may collect from participating employees a fee that is directly related to defraying the actual cost of transmitting the electronic portion of a tax return.

.06 An employer is not required to sign Form 8453 as ERO. However, if the employer chooses not to sign Form 8453, the employer must otherwise furnish on Form 8453 its name, address, and the designation "Employee Benefit," and if operating from multiple sites, a site designation number.

.07 An employer and a District Director may enter into an agreement that provides for the retention of copies of tax returns including Forms 8453. In the absence of such an agreement, this information must be retained by the employer. This information is not to be given to a third party, including a third party Transmitter.

SECTION 18. PILOT PROGRAMS

.01 The Service regularly conducts pilot programs to introduce new technology into the Form 1040 IRS *e-file* Program. These pilot programs are usually conducted within a limited geographic area or within a limited taxpayer or practitioner community. The Service establishes rules for participating in these pilot programs and embodies these rules in an implementing document typically referred to as a "Memorandum of Understanding" (MOU) or "Memorandum of Agreement" (MOA). Pilot participants must agree to the provisions of the implementing document in order to participate in the pilot program.

.02 An implementing document supplements this revenue procedure, but does not supersede it. Participants in a pilot program remain subject to the provisions of this revenue procedure unless the implementing document specifically provides otherwise.

.03 A violation of a provision of an implementing document is considered a violation of this revenue procedure and may subject the participant to penalties and/or suspension as provided in this revenue procedure. See section 13.08(22) of this revenue procedure.

SECTION 19. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97-60, 1997-52 I.R.B. 38, is superseded.

SECTION 20. EFFECTIVE DATE

This revenue procedure is effective September 21, 1998.

SECTION 21. INTERNAL REVENUE SERVICE OFFICE CONTACT

All questions regarding this revenue procedure should be directed to the Internal Revenue Service. The telephone number for this purpose is (202) 283-0531 (not a toll-free number).

SECTION 22. 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 1545-1512.

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, 8, 9, and 12. This information is required to implement the Form 1040 IRS *e-file* Program and to enable taxpayers to file their individual income tax returns electronically. The information will be used to ensure that taxpayers receive accurate and essential information regarding the filing of their electronic returns and to identify the persons involved in the filing of electronic returns. The collections of information are required to retain the benefit of participating in the Form 1040 IRS *e-file* Program. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and recordkeeping burden is 1,146,272 hours.

The estimated annual burden per respondent/recordkeeper varies from six (6) minutes to 15.5 hours, depending on individual circumstances, with an estimated average of 15.28 hours (or approximately six (6) minutes per electronically filed re-

turn). The estimated number of respondents and recordkeepers is 75,000.

The estimated annual frequency of responses is on occasion.

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.

26 CFR 601.602: Tax forms and instructions. (Also Part 1, Sections 6012, 6061; 1.6012-5, 1.6061-1.)

Rev. Proc. 98-51

CONTENTS

- SECTION 1 PURPOSE
- SECTION 2 BACKGROUND AND CHANGES
- SECTION 3 ON-LINE FILING PARTICIPANTS—DEFINITIONS
- SECTION 4 ACCEPTANCE IN THE FORM 1040 ON-LINE FILING PROGRAM
- SECTION 5 RESPONSIBILITIES OF AN ON-LINE FILER
- SECTION 6 PENALTIES
- SECTION 7 FORM 8453-OL, U.S. INDIVIDUAL TAX DECLARATION FOR ON-LINE FILING
- SECTION 8 INFORMATION AN ON-LINE FILER MUST FURNISH TO THE TAXPAYER
- SECTION 9 DIRECT DEPOSIT OF REFUNDS
- SECTION 10 BALANCE DUE RETURNS
- SECTION 11 ADVERTISING STANDARDS FOR ON-LINE FILERS
- SECTION 12 MONITORING AND SUSPENSION OF AN ON-LINE FILER
- SECTION 13 ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE FORM 1040 ON-LINE FILING PROGRAM
- SECTION 14 ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM

THE FORM 1040 ON-LINE FILING PROGRAM

- SECTION 15 PILOT PROGRAMS
- SECTION 16 EFFECT ON OTHER DOCUMENTS
- SECTION 17 EFFECTIVE DATE
- SECTION 18 INTERNAL REVENUE SERVICE OFFICE CONTACT
- SECTION 19 PAPERWORK REDUCTION ACT

SECTION 1. PURPOSE

This revenue procedure informs those who participate in the Form 1040 On-Line Filing Program of their obligations to the Internal Revenue Service, taxpayers, and other participants. The following returns can be filed under the Form 1040 On-Line Filing Program: (1) Form 1040 and Form 1040A, U.S. Individual Income Tax Return; and (2) Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents. This revenue procedure updates and supersedes Rev. Proc. 97-61, 1997-52 I.R.B. 50.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 1.6012-5 of the Income Tax Regulations provides that the Commissioner may authorize the use, at the option of a person required to make a return, of a composite return in lieu of any form specified in 26 C.F.R. Part 1 (Income Tax), subject to the conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.02 For purposes of this revenue procedure, an on-line electronically filed Form 1040, Form 1040A, or Form 1040EZ is a composite return consisting of electronically transmitted data and certain paper documents. The paper portion of the return consists of Form 8453-OL, U.S. Individual Income Tax Declaration for On-Line Filing, and other paper documents that cannot be electronically transmitted. Form 8453-OL must be received by the Service before the composite return is considered filed (see section 5.07 of this revenue procedure). The composite return must contain the same information that a return filed completely on paper

contains. See section 7 of this revenue procedure for procedures for completing Form 8453-OL.

.03 Each year prior to the start of the filing season, the Service will issue Publication 1345A, Filing Season Supplement for Electronic Return Originators, and Publication 1346, Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns. These publications list the forms and schedules associated with the Form 1040 series that can be electronically transmitted during the upcoming filing season.

.04 For purposes of the Form 1040 On-Line Filing Program, a Form 1040, Form 1040A, or Form 1040EZ for any taxable year cannot be electronically filed after the 15th day of October following the close of that taxable year, notwithstanding the fact that the taxpayer has been granted an extension to file a return beyond that date. If the 15th day of October falls on a Saturday, Sunday, or legal holiday, then the electronically filed return may be filed on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

.05 An amended tax return cannot be electronically filed under the Form 1040 On-Line Filing Program. A taxpayer must file an amended tax return on paper in accordance with the instructions for Form 1040X, Amended U.S. Individual Income Tax Return.

.06 A tax return that has a foreign address for the taxpayer cannot be electronically filed under the Form 1040 On-Line Filing Program. Army/Air Force (APO) and Fleet (FPO) post offices are not considered foreign addresses for this purpose.

.07 A tax return for a decedent cannot be electronically filed under the Form 1040 On-Line Filing Program. The decedent's spouse or personal representative must file a paper tax return for the decedent.

.08 Some of the updates and changes to Rev. Proc. 97-61 are as follows:

(1) references to specific dates and specific tax years have been replaced with more general references in order to eliminate the need for annual updates to this revenue procedure;

(2) the application period for new applicants that intend to participate in the Form 1040 On-Line Filing Program for any filing season is extended beyond the beginning of the filing season (section 4.05);

(3) On-Line Filers participating as Software Developers must provide the Service with a copy of their software and its accompanying documentation (section 5.10(9));

(4) the number of returns that may be filed from one software package or from one e-mail address has been increased from three returns to five (sections 5.09(2), 5.10(3), 5.10(4), and 5.11(12)); and

(5) the provisions of this revenue procedure apply to participants in various pilot programs conducted with respect to the Form 1040 On-Line Filing Program (section 15).

SECTION 3. ON-LINE FILING PARTICIPANTS—DEFINITIONS

.01 After acceptance into the Form 1040 On-Line Filing Program, as described in section 4 of this revenue procedure, a participant is referred to as an "On-Line Filer."

.02 The On-Line Filer categories are:

(1) **ON-LINE SERVICE PROVIDER.** An "On-Line Service Provider" is an on-line information service organization that provides paying subscribers (individuals who use the various services offered by an On-Line Service Provider) dial-up access to a variety of data bases. For purposes of the Form 1040 On-Line Filing Program, an On-Line Service Provider must also have:

(a) an established subscriber or client base to whom the On-Line Service Provider offers services on a continuing basis and about which the On-Line Service Provider maintains certain minimum information identifying the subscriber. Such information could include the subscriber's name, account number, credit card number, or demand deposit account number;

(b) a port capacity of at least 1,000 lines or the ability to simultaneously service 1,000 customers;

(c) a network of personal computers that are linked by modems;

(d) access to a broad spectrum of information and/or entertainment services; and

(e) a client base that has the ability to communicate using electronic mail.

(2) **SOFTWARE DEVELOPER.** A "Software Developer" develops software

for the purposes of (a) formatting the electronic portion of returns according to Publication 1346; and/or (b) transmitting the electronic portion of returns directly to the Service. A Software Developer may also sell its software.

(3) **TRANSMITTER.** A "Transmitter" transmits the electronic portion of a return directly to the Service. An entity that provides a "bump-up" service is a Transmitter. A "bump-up" service provider increases the transmission rate or line speed of formatted or reformatted information that is being sent to the Service via a public switched telephone network. The Service accepts transmissions using a variety of telecommunications protocols.

.03 The On-Line Filer categories are not mutually exclusive. For example, a Software Developer can, at the same time, be considered a Transmitter or an On-Line Service Provider depending on the function(s) performed.

SECTION 4. ACCEPTANCE IN THE FORM 1040 ON-LINE FILING PROGRAM

.01 Except as provided in sections 4.02 through 4.04 of this revenue procedure, an On-Line Filer that participated in the most recent Form 1040 On-Line filing season does not have to reapply to participate in the next Form 1040 On-Line filing season. However, an On-Line Filer that intends to participate as a Transmitter or a Software Developer must first successfully complete, for each filing season, the testing referred to in section 4.11 of this revenue procedure. In addition, section 4.14 of this revenue procedure provides for the Service's issuance of credentials necessary for participation in the Form 1040 On-Line Filing Program.

.02 Applicants must file a new Form 8633, Application to Participate in the IRS *e-file* Program, with completed fingerprint cards for the appropriate individuals, if:

(1) the applicant has never participated in the Form 1040 On-Line Filing Program;

(2) the applicant has previously been denied participation in the Form 1040 On-Line Filing Program; or

(3) the applicant has been suspended from the Form 1040 On-Line Filing Program.

Applicants must designate that the Form 8633 is for the Form 1040 On-Line Filing Program by checking the box titled "ON-LINE FILING."

.03 An On-Line Filer must submit a revised Form 8633 (designated for the Form 1040 On-Line Filing Program as described in section 4.02 of this revenue procedure), signed by all "Principals" and the "Responsible Official" (as described in section 4.12 of this revenue procedure), with completed fingerprint cards for those appropriate individuals who have not submitted a fingerprint card with a previously accepted application, if:

- (1) the On-Line Filer participated solely as a Software Developer in the most recent Form 1040 On-Line filing season and intends to participate as an On-Line Service Provider or Transmitter;
- (2) there is an additional Principal, such as a partner or a corporate officer, that must be listed on Form 8633;
- (3) there is a Principal listed on Form 8633 that should be deleted; or
- (4) the Responsible Official on Form 8633 changes.

.04 Except as provided in section 4.03 of this revenue procedure, an On-Line Filer must submit either a revised Form 8633 (designated for the Form 1040 On-Line Filing Program as described in section 4.02 of this revenue procedure), or a letter containing the same information contained in a revised Form 8633, if any information on the On-Line Filer's Form 8633 has changed. A revised Form 8633 or letter submitted under this section should include only the changed information and the following identifying information:

- (1) the On-Line Filer's legal name;
- (2) the On-Line Filer's employer identification number and/or social security number (EIN/SSN);
- (3) the On-Line Filer's "Doing Business As" (DBA) name;
- (4) whether the On-Line Filer is controlled or owned by another On-Line Filer;
- (5) the On-Line Filer's controlling office name;
- (6) the Electronic Transmitter Identification Number (ETIN) of the On-Line Filer's controlling office;
- (7) the Electronic Filing Identification Number (EFIN) of the On-Line Filer's controlling office; and

(8) the business address of the On-Line Filer's controlling office.

A Principal or the Responsible Official must sign the revised Form 8633 or the letter.

.05 For applicants described in section 4.02 of this revenue procedure, the application period begins on the 1st day of August preceding the filing season during which they intend to participate in the Form 1040 On-Line Filing Program. The application period continues into the filing season (see the Form 8633 instructions for the last date to file a new application); however, applications submitted after the 1st day of December preceding the filing season may not be processed in time for the applicant to participate in the Form 1040 On-Line Filing Program by the start of the filing season.

.06 Revised applications described in sections 4.03 and 4.04 of this revenue procedure must be submitted within 30 days of the change(s) reflected on the revised Form 8633 or in the letter. On-Line Filers that fail to submit revised applications may be temporarily dropped from the Form 1040 On-Line Filing Program.

.07 Applicants and On-Line Filers described in sections 4.02 through 4.04 of this revenue procedure must file Form 8633 (or a letter as provided in section 4.04 of this revenue procedure) with the Application Processing Center at the address listed in the instructions for Form 8633.

.08 Applicants described in section 4.02 that submit their applications on or before the 31st day of December preceding the filing season must submit the following information (or the name and phone number of an individual who can provide the information) to the IRS Headquarters Form 1040 On-Line Filing Program Analyst (see section 18 of this revenue procedure) no later than the 31st day of December preceding the filing season:

- (1) the brand name of the software the applicant will be using, has developed, or will be transmitting, and the following information regarding the software:
 - (a) the name of the Software Developer for the software;
 - (b) the name of the Transmitter for the software;
 - (c) the retail cost of the software and any additional costs for transmitting

the electronic portion of the taxpayer's return;

(d) whether the software can be used to file Federal/State returns;

(e) whether the software is available on the Internet and, if so, the Internet address; and

(f) the Professional Package name of the software submitted for Participants Acceptance Testing (PATS) and whether the software has successfully completed PATS;

(2) the applicant's point of contact for matters relating to the Form 1040 On-Line Filing Program and the telephone number for the point of contact;

(3) the applicant's customer service telephone number; and

(4) the procedures the applicant will use to ensure that no more than five returns are transmitted from one software package or from one e-mail address (see sections 5.09(2), 5.10(3), 5.10(4), and 5.11(12)).

.09 Applicants described in section 4.02 that do not submit their applications on or before the 31st day of December preceding the filing season during which they intend to participate must submit the information described in sections 4.08(1) through (4) at the time they submit their applications.

.10 On-Line Filers must submit any changes to the information contained in sections 4.08(1) through (4) of this revenue procedure to the IRS Headquarters Form 1040 On-Line Filing Program Analyst by the 31st day of December preceding the next filing season.

.11 Applicants and On-Line Filers described in sections 4.01 through 4.04 of this revenue procedure that intend to participate as a Transmitter or a Software Developer in the Form 1040 On-Line Filing Program must first successfully complete the necessary testing at the appropriate service center(s). Such testing must be completed for each filing season during which the applicant or On-Line Filer intends to participate as a Transmitter or Software Developer.

.12 Each individual listed as a Principal or a Responsible Official on a Form 8633 must:

- (1) be a United States citizen or an alien lawfully admitted for permanent residence as described in 8 U.S.C. § 1101(a)-(20) (1994);

(2) have attained the age of 21 as of the date of application;

(3) submit with Form 8633 one standard fingerprint card with a full set of fingerprints taken by a law enforcement agency, except as provided in section 4.13 of this revenue procedure; and

(4) except as provided in section 4.15 of this revenue procedure, pass a suitability check that includes a credit check, a tax compliance check, and a fingerprint check.

.13 In lieu of a standard fingerprint card, an individual may choose to submit evidence that the individual is:

(1) an attorney in good standing of the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia, and is not currently under suspension or disbarment from practice before the Service or the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia;

(2) a certified public accountant who is duly qualified to practice as a certified public accountant in any State, Commonwealth, possession, territory, or the District of Columbia, and is not currently under suspension or disbarment from practice before the Service or whose license to practice is not currently suspended or revoked by any State, Commonwealth, possession, territory, or the District of Columbia;

(3) an enrolled agent pursuant to part 10 of 31 C.F.R. Subtitle A;

(4) an officer of a publicly held corporation; or

(5) a banking official who is bonded and has been fingerprinted within the last two years.

.14 The Service will issue credentials each year to eligible applicants, On-Line Filers that do not have to reapply pursuant to section 4.01 of this revenue procedure, and On-Line Filers that comply with section 4.03 or 4.04 of this revenue procedure, provided they have first satisfactorily completed the testing described in section 4.11 of this revenue procedure if they intend to participate as a Transmitter or Software Developer. No one may participate in the Form 1040 On-Line Filing Program without the following credentials:

(1) a letter of acceptance into the Form 1040 On-Line Filing Program;

(2) an EFIN for each applicable service center; and

(3) if appropriate, an ETIN for each applicable service center.

.15 If an On-Line Filer is a Software Developer that performs no other function in the Form 1040 On-Line Filing Program but software development, no Principal or Responsible Official needs to pass a suitability check.

.16 The Service may reject an application to participate in the Form 1040 On-Line Filing Program for the following reasons (this list is not all-inclusive). These reasons apply to any firm, organization, Principal, or Responsible Official listed on Form 8633:

(1) conviction of any criminal offense under the revenue laws of the United States, or of any offense involving dishonesty or breach of trust;

(2) failure to file timely and accurate tax returns, including returns indicating that no tax is due (unless the applicant did not have a legal filing requirement);

(3) failure to timely pay any tax liabilities;

(4) assessment of any tax penalties;

(5) suspension/disbarment from practice before the Service;

(6) disreputable conduct or other facts that would reflect adversely on the Form 1040 On-Line Filing Program;

(7) misrepresentation on an application;

(8) suspension or rejection from either the Form 1040 On-Line Filing Program, the Form 1040 Electronic Filing (ELF) Program, or the Form 1040 IRS *e-file* Program in a prior year;

(9) unethical practices in return preparation;

(10) stockpiling returns prior to official acceptance into the Form 1040 On-Line Filing Program (see section 5.21 of this revenue procedure);

(11) knowingly and directly or indirectly employing or accepting assistance from any firm, organization, or individual that is prohibited from applying to participate in the Form 1040 On-Line Filing Program, the Form 1040 ELF Program, or the Form 1040 IRS *e-file* Program, or that is suspended from participating in the Form 1040 On-Line Filing Program, the Form 1040 ELF Program, or the Form 1040 IRS *e-file* Program. This includes any individual whose actions resulted in

the rejection or suspension of a corporation or a partnership from the Form 1040 On-Line Filing Program, the Form 1040 ELF Program, or the Form 1040 IRS *e-file* Program; or

(12) knowingly and directly or indirectly accepting employment as an associate, correspondent, or as a subagent from, or sharing fees with, any firm, organization, or individual that is prohibited from applying to participate in the Form 1040 On-Line Filing Program, the Form 1040 ELF Program, or the Form 1040 IRS *e-file* Program, or that is suspended from participating in the Form 1040 On-Line Filing Program, the Form 1040 ELF Program, or the Form 1040 IRS *e-file* Program. This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the Form 1040 On-Line Filing Program, the Form 1040 ELF Program, or the Form 1040 IRS *e-file* Program.

SECTION 5. RESPONSIBILITIES OF AN ON-LINE FILER

.01 To ensure that complete returns are accurately and efficiently filed, an On-Line Filer must comply with all the publications and notices of the Service relating to the Form 1040 On-Line Filing Program. The Service will from time to time update such publications and notices to reflect changes to the program. It is the responsibility of the On-Line Filer to ensure that it complies with the latest version of all publications and notices. The publications and notices governing the Form 1040 On-Line Filing Program include:

(1) Publication 1345, Handbook for Electronic Return Originators of Individual Income Tax Returns, and Publication 1345A;

(2) Publication 1346;

(3) Publication 1436, Test Package for Electronic Filing of Individual Income Tax Returns; and

(4) Postings to the Electronic Filing System Bulletin Board (EFS Bulletin Board), and the IRS "Digital Daily" web site at:

<http://www.irs.ustreas.gov>

on the Internet.

.02 An On-Line Filer must maintain a high degree of integrity, compliance, and accuracy.

.03 An On-Line Filer may accept returns for the Form 1040 On-Line Filing Program only from the taxpayer filing the return or from another On-Line Filer.

.04 If an On-Line Filer charges a fee for the transmission of the electronic portion of a tax return, the fee may not be based on a percentage of the refund amount or any other amount from the tax return.

.05 An On-Line Filer must submit a revised Form 8633 (or a letter as provided in section 4.04 of this revenue procedure) to the Application Processing Center within 30 days of when any of the conditions or changes described in section 4.03 or 4.04 of this revenue procedure occur. See section 4.06 of this revenue procedure.

.06 An On-Line Filer must notify the Application Processing Center (at the address listed in the instructions for Form 8633) within 30 days of discontinuing its participation in the Form 1040 On-Line Filing Program. This does not preclude reapplication in the future.

.07 An On-Line Filer must ensure that it promptly processes returns submitted to it for electronic filing. See sections 5.09, 5.10, and 5.11 of this revenue procedure. However, an On-Line Filer that receives a return for electronic filing on or before the due date of the return must ensure that the electronic portion of the return is transmitted on or before that due date (including extensions). An electronically filed return is not considered filed until the electronic portion of the tax return has been acknowledged by the Service as accepted for processing and a completed and signed Form 8453-OL has been received by the Service. However, if the electronic portion of a return is successfully transmitted on or shortly before the due date and the taxpayer complies with section 7.01 of this revenue procedure, the return will be deemed timely filed. If the electronic portion of a return is transmitted on or shortly before the due date and is ultimately rejected, but the taxpayer complies with section 5.18 of this revenue procedure, the return will be deemed timely filed. For a balance due return, see section 10 of this revenue procedure for instructions on how to make a timely payment of tax.

.08 An On-Line Filer must ensure against the unauthorized use of its EFIN

or ETIN. An On-Line Filer must not transfer its EFIN or ETIN by sale, loan, gift, or otherwise to another entity.

.09 An On-Line Filer that participates as an On-Line Service Provider must:

(1) provide assistance to a subscriber in transmitting the electronic portion of a tax return;

(2) ensure that no more than five tax returns are filed electronically by one subscriber;

(3) not provide to a subscriber software that has a Service-assigned production password built into the software; and

(4) immediately send to a subscriber the information provided by a Transmitter under section 5.16 or 5.17 of this revenue procedure.

.10 An On-Line Filer that participates as a Software Developer must:

(1) promptly correct any software error which causes the electronic portion of a return to be rejected;

(2) promptly distribute any software correction;

(3) ensure that its software package cannot be used to transmit more than five electronic returns;

(4) ensure that its software, if available for use on an Internet web site, cannot be used to file more than five electronic returns from one e-mail address;

(5) ensure that its software contains a Form 8453-OL format that can be printed and used by a taxpayer to file with the Service;

(6) ensure that its software contains a Form 1040-V, Payment Voucher, that can be printed and used by a taxpayer to file with the Service;

(7) ensure that its software contains a consent to disclosure statement;

(8) not incorporate into its software a Service-assigned production password; and

(9) provide a copy of the software and accompanying documentation (a demonstration package is sufficient) to the IRS Headquarters On-Line Filing Analyst upon successful completion of the testing described in section 4.11 of this revenue procedure.

.11 An On-Line Filer that participates as a Transmitter must:

(1) assign (as prescribed in Publication 1346) a Declaration Control Number (DCN) to the electronic portion of each return received from a taxpayer;

(2) include the assigned DCN in the transmission of the electronic portion of a return;

(3) send all electronic portions of returns within three calendar days of receipt to the appropriate service center based on the state code in the taxpayer's return address;

(4) retrieve the acknowledgement file (in which the Service states whether it accepts or rejects the electronic portion of a taxpayer's return for processing) within two work days of transmission;

(5) match the acknowledgement file to the original transmission file and notify the taxpayer of the status of a transmitted return as prescribed in section 5.19 of this revenue procedure;

(6) retain, until the end of the calendar year in which a return was filed, the acknowledgement file received from the Service;

(7) retain, until the end of the calendar year in which a return was filed, the complete copy of the electronic portion of the return (may be retained on magnetic media) that can be readily and accurately converted into an electronic transmission that the Service can process;

(8) immediately contact the appropriate service center for further instructions if an acknowledgement of acceptance for processing has not been received by the Transmitter within two work days of transmission or if the Transmitter receives an acknowledgement for a return that was not transmitted on the designated transmission;

(9) promptly correct any transmission error that causes an electronic transmission to be rejected;

(10) contact the service center that rejected the electronic portion of the return for assistance if that portion of the return has been rejected after three transmission attempts;

(11) ensure the security of all transmitted data;

(12) ensure that it does not transmit or accept for transmission more than five electronic returns originating from one software package or from one e-mail address;

(13) ensure that the electronic portion of a return contains a completed consent to disclosure statement; and

(14) ensure that it does not use software that has a Service-assigned production password built into the software.

.12 A Transmitter must include an On-Line Service Provider's EFIN on each return that the Transmitter accepts from an On-Line Service Provider.

.13 A Transmitter must enter the letter "O" in the Trans Record "A" as the "Transmission Type Code" when transmitting the electronic portion of an on-line electronically filed return to the Service.

.14 A Transmitter must ensure that it does not combine, within the same transmission to the Service, the electronic portion of a return filed under the Form 1040 On-Line Filing Program with the electronic portion of a return filed under any other electronic filing program.

.15 A Transmitter must ensure that it does not use an EFIN or ETIN obtained through the Form 1040 IRS *e-file* Program in a transmission of the electronic portion of a taxpayer's return as part of the Form 1040 On-Line Filing Program.

.16 If the Service accepts the electronic portion of a taxpayer's return, the Transmitter must notify the taxpayer (as prescribed in section 5.19 of this revenue procedure) of the following:

- (1) the date the transmission was accepted;
- (2) the DCN;
- (3) where to put the DCN on Form 8453-OL;
- (4) the requirement to properly complete and timely submit a Form 8453-OL with accompanying paper documents (including Form W-2, Wage and Tax Statement; Form W-2G, Statement for Recipients of Certain Gambling Winnings; and Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.) within one work day;
- (5) the appropriate service center's address to which Form 8453-OL with accompanying paper documents must be sent;
- (6) that a Form 8453-OL must be received by the Service before an on-line electronically filed return is complete; and
- (7) that the taxpayer's failure to timely submit a Form 8453-OL with accompanying paper documents could result in the Service not allowing the taxpayer to file a tax return through the Form 1040 On-Line Filing Program in the future.

.17 If the Service informs the Transmitter (in an acknowledgement file) that the electronic portion of a taxpayer's return has been rejected, the Transmitter must notify the taxpayer, as prescribed in section 5.19 of this revenue procedure, of the following:

- (1) that the Service rejected the electronic portion of the taxpayer's return;
- (2) the date of the rejection;
- (3) what the reject code(s) means;
- (4) what steps the taxpayer needs to take to correct the error that caused the rejection; and
- (5) the information contained in section 5.18 of this revenue procedure.

.18 If the taxpayer chooses not to have the electronic portion of the return corrected and transmitted to the Service, or if the electronic portion of the return cannot be accepted for processing by the Service, the taxpayer must file a paper return by the later of:

- (1) the due date of the return; or
 - (2) ten calendar days after the date the Service gives notification that the electronic portion of the return is rejected or that the electronic portion of the return cannot be accepted for processing.
- The paper return should include an explanation of why the return is being filed after the due date.

.19 A Transmitter that transmits a return of a taxpayer who is a subscriber of an On-Line Service Provider must notify the taxpayer by sending an electronic transmission to the On-Line Service Provider within two work days of retrieving the acknowledgement file. A Transmitter that transmits a return of a taxpayer who is not a subscriber of an On-Line Service Provider must notify the taxpayer by:

- (1) sending an electronic transmission to the taxpayer within two work days of retrieving the acknowledgement file; or
- (2) mailing a written notification to the taxpayer within one work day of retrieving the acknowledgement file.

.20 A Transmitter must make available to the Service upon request all items required by this section to be retained until the end of the calendar year in which a return was filed. The Transmitter must make this material available either at the business address of the Transmitter or from the contact representative named on Form 8633.

.21 A Transmitter is responsible for ensuring that stockpiling does not occur. Stockpiling means collecting returns from taxpayers prior to official acceptance into the Form 1040 On-Line Filing Program, or, after official acceptance into the Form 1040 On-Line Filing Program, waiting more than three calendar days to transmit a return to the Service after receiving the information necessary for transmission of the electronic portion of a tax return.

.22 An On-Line Filer may not offer, nor in any way participate in or facilitate, a Refund Anticipation Loan (RAL) in connection with any return filed under the Form 1040 On-Line Filing Program. A RAL is money borrowed by a taxpayer that is based on a taxpayer's anticipated income tax refund.

.23 An On-Line Filer may not charge a separate fee for a Direct Deposit. See section 9 of this revenue procedure.

.24 In addition to the specific responsibilities described in this section, an On-Line Filer must meet all the requirements in this revenue procedure to keep the privilege of participating in the Form 1040 On-Line Filing Program.

SECTION 6. PENALTIES

.01 Penalties for Disclosure or Use of Information.

(1) An On-Line Filer, except a Software Developer that performs no other function in the Form 1040 On-Line Filing Program but software development, is a tax return preparer (Preparer) under the definition of § 301.7216-1(b) of the Regulations on Procedure and Administration. A Preparer is subject to a criminal penalty for unauthorized disclosure or use of tax return information. See § 7216 of the Internal Revenue Code and § 301.7216-1(a). In addition, § 6713 establishes civil penalties for unauthorized disclosure or use of tax return information.

(2) Under § 301.7216-2(h), disclosure of tax return information among accepted On-Line Filers for the purpose of preparing a return is permissible. For example, an On-Line Service Provider may pass on tax return information to a Transmitter for the purpose of having an on-line electronic return formatted and transmitted to the Service. However, if the tax return information is disclosed or used in any other way, an On-Line Filer may be

subject to the penalties described in section 6.01(1) of this revenue procedure.

.02 Other Preparer Penalties.

(1) Preparer penalties may be asserted against an individual or firm meeting the definition of an income tax return preparer under § 7701(a)(36) and § 301.7701-15. Preparer penalties that may be asserted under appropriate circumstances include, but are not limited to, those set forth in §§ 6694, 6695, and 6713.

(2) Under § 301.7701-15(d), an On-Line Filer is not an income tax return preparer for the purpose of assessing most preparer penalties as long as the On-Line Filer's services are limited to "typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund."

(3) If an On-Line Filer alters the return information in a nonsubstantive way, this alteration will be considered to come under the "mechanical assistance" exception described in § 301.7701-15(d)(1). A nonsubstantive change is a correction or change limited to a transposition error, misplaced entry, spelling error, or arithmetic correction that falls within the following tolerances:

(a) the amount of "Total tax", "Federal income tax withheld", "Refund", or "Amount you owe" on Form 8453-OL differs from the corresponding amount on the electronic portion of the tax return by no more than \$7;

(b) the amount of "Total income" shown on Form 8453-OL differs from the corresponding amount on the electronic portion of the tax return by no more than \$25; or

(c) dropping cents and rounding to whole dollars.

(4) If an On-Line Filer alters the return information in a substantive way, rather than having the taxpayer alter the return, the On-Line Filer will be considered to be an income tax return preparer for purposes of § 7701(a)(36).

(5) If an On-Line Filer goes beyond mechanical assistance, the On-Line Filer may be held liable for income tax return preparer penalties. See Rev. Rul. 85-189, 1985-2 C.B. 341 (which describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties).

.03 Other Penalties. In addition to the above specified provisions, the Service reserves the right to assert all appropriate preparer, nonpreparer, and disclosure penalties against an On-Line Filer as warranted under the circumstances.

SECTION 7. FORM 8453-OL, U.S. INDIVIDUAL INCOME TAX DECLARATION FOR ON-LINE FILING

.01 Procedures for Completing Form 8453-OL.

(1) Form 8453-OL must be completed by the taxpayer in accordance with the instructions for that form.

(2) The taxpayer(s)'s name, address, social security number(s), and tax return information in the electronic transmission must be identical to the information on the Form 8453-OL that the taxpayer(s) signs and will mail to the service center that acknowledged acceptance of the electronic portion of the return.

(3) If the electronic portion of a return was filed as a joint return, both spouses' signatures are required on Form 8453-OL.

(4) The taxpayer's Form 8453-OL must be sent to the address of the service center that acknowledged acceptance of the electronic portion of the return within one work day after the taxpayer is provided notification that the electronic portion of the taxpayer's return has been accepted for processing.

.02 Missing Form 8453-OL. If the Service determines that a Form 8453-OL is missing, the taxpayer must provide the Service with a replacement. A taxpayer must also provide a copy of any Form(s) W-2, W-2G, 1099-R, and all other attachments to Form 8453-OL.

.03 Substitute Form 8453-OL. If a substitute Form 8453-OL is used, it must be approved by the Service prior to use.

SECTION 8. INFORMATION AN ON-LINE FILER MUST FURNISH TO THE TAXPAYER

.01 The Transmitter must advise a taxpayer to retain a complete copy of the return and any supporting material.

.02 The Transmitter must advise the taxpayer that an amended return, if needed, must be filed as a paper return and mailed to the service center that would handle the taxpayer's paper return.

.03 The Transmitter must give the taxpayer the DCN for the taxpayer's Form 8453-OL and instructions to the taxpayer for entering the DCN on Form 8453-OL.

.04 If a taxpayer inquires about the status of a refund, the Transmitter, or On-Line Service Provider if the taxpayer is a subscriber, must advise the taxpayer of the appropriate IRS TeleTax number to inquire about the status of the taxpayer's refund. The Transmitter or On-Line Service Provider should also advise the taxpayer to wait at least three weeks from the date the Service acknowledged that the electronic portion of the taxpayer's return was accepted for processing before calling the TeleTax number.

.05 The Transmitter must inform the taxpayer that the address on the electronic portion of the return, once processed, will be used to update the taxpayer's address of record. The Service uses the taxpayer's address of record for various notices that are required to be sent to a taxpayer's "last known address" under the Internal Revenue Code and for refunds of overpayments of tax (unless otherwise specifically directed by the taxpayer, such as by Direct Deposit).

SECTION 9. DIRECT DEPOSIT OF REFUNDS

.01 The Service will ordinarily process a request for Direct Deposit but reserves the right to issue a paper refund check.

.02 The Service does not guarantee a specific date by which a refund will be directly deposited into the taxpayer's financial institution account.

.03 Neither the Service nor Financial Management Service (FMS) is responsible for the misapplication of a Direct Deposit that is caused by error, negligence, or malfeasance on the part of the taxpayer, On-Line Filer, financial institution, or any of their agents.

SECTION 10. BALANCE DUE RETURNS

.01 An on-line electronically filed balance due return is transmitted to the appropriate service center in the same manner that a refund or zero balance return is filed. A balance due return is not complete unless and until the Service receives Form 8453-OL completed and signed by the taxpayer.

.02 Taxpayers who file balance due returns under the Form 1040 On-Line Filing Program for any taxable year are responsible for making full and timely payment of any tax that is due. Failure to make full payment on or before the due date of the return (determined without regard to extensions) will result in the imposition of interest and may result in the imposition of penalties.

.03 Taxpayers have several options for paying balances due, including the following:

(1) **DIRECT DEBIT.** Taxpayers may authorize the Service to debit their checking or savings account for the amount of the balance due;

(2) **PAY BY CHECK.** Taxpayers may pay any balance due by sending a check, along with Form 1040-V, Payment Voucher, to the Service. The Form 1040-V is contained in all software approved for use in the Form 1040 On-Line Filing Program (see section 5.10(6) of this revenue procedure); and

(3) **INSTALLMENT AGREEMENT.** Taxpayers who cannot pay the balance due with the return may request an installment payment arrangement by filing Form 9465, Installment Agreement Request, with their return.

SECTION 11. ADVERTISING STANDARDS FOR ON-LINE FILERS

.01 An On-Line Filer must comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. Any claims concerning faster refunds by virtue of electronic filing must be consistent with the language in official Service publications.

.02 An On-Line Filer must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting.

.03 An On-Line Filer must not use the Service's name, "Internal Revenue Service" or "IRS", within a firm's name.

.04 An On-Line Filer must not use improper or misleading advertising in relation to the Form 1040 On-Line Filing Program (including the time frames for refunds).

.05 An On-Line Filer using electronic filing promotional materials or logos provided by the Service must comply with all Service instructions pertaining to the promotional materials or logos.

.06 An On-Line Filer using the Direct Deposit name and logo must comply with the following:

(1) The name "Direct Deposit" will be used with initial capital letters or all capital letters;

(2) The logo/graphic for Direct Deposit will be used whenever feasible in advertising copy; and

(3) The color or size of the Direct Deposit logo/graphic may be changed when used in advertising pieces.

.07 Advertising materials must not carry the FMS, IRS, or other Treasury Seals.

.08 Advertising for a cooperative electronic return filing project (public/private sector) must clearly state the names of all cooperating parties.

.09 If an On-Line Filer uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The On-Line Filer 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.

.10 If an On-Line Filer uses direct mail or fax communications to advertise, the On-Line Filer must retain a copy of the actual mailing or fax, along with a list or other description of 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.

.11 Acceptance to participate in the Form 1040 On-Line Filing Program does not imply endorsement by the Service, FMS, or the Treasury Department of the software or quality of services provided.

SECTION 12. MONITORING AND SUSPENSION OF AN ON-LINE FILER

.01 The Service will monitor an On-Line Filer for conformity with this revenue procedure. Before suspending an On-Line Filer, the Service may issue a warning letter that describes specific corrective action for deviations from this revenue procedure. However, the Service can immediately suspend, without notice, an On-Line Filer from the Form 1040 On-

Line Filing Program. In most circumstances, a suspension from participation in the Form 1040 On-Line Filing Program is effective as of the date of the letter informing the On-Line Filer of the suspension.

.02 If a Principal or Responsible Official is suspended from the Form 1040 On-Line Filing Program, every entity that listed the suspended Principal or Responsible Official on its Form 8633 may also be suspended.

.03 The Service will monitor the timely receipt of Forms 8453-OL.

.04 The Service will monitor the quality of an On-Line Filer's transmissions throughout the filing season. The Service will also monitor the electronic portion of returns and tabulate rejections, errors, and other defects. If quality deteriorates, the On-Line Filer will receive a warning from the Service.

.05 The Service will monitor complaints about an On-Line Filer and issue a warning or suspension letter as appropriate.

.06 The Service reserves the right to suspend an On-Line Filer from participation in the Form 1040 On-Line Filing Program for violating any provision of this revenue procedure. Generally, the Service will advise a suspended On-Line Filer concerning the requirements for reacceptance into the Form 1040 On-Line Filing Program. The following reasons may lead to a warning letter and/or suspension of an On-Line Filer from the Form 1040 On-Line Filing Program (this list is not all-inclusive):

(1) the reasons listed in section 4.16 of this revenue procedure;

(2) deterioration in the format of individual transmissions;

(3) unacceptable cumulative error or rejection rate;

(4) stockpiling returns at any time while participating in the Form 1040 On-Line Filing Program;

(5) failure on the part of a Transmitter to retrieve acknowledgement files within two work days of transmission by the Service;

(6) failure on the part of a Transmitter to notify the taxpayer, as prescribed in section 5.19 of this revenue procedure, of the status of a transmitted return within two work days of receipt of the acknowledgement files from the Service;

(7) failure on the part of an On-Line Service Provider to ensure that no more than five tax returns are filed electronically by one subscriber;

(8) failure on the part of a Transmitter to ensure that it does not transmit or accept for transmission more than five electronic returns originating from one software package or one e-mail address;

(9) significant complaints about an On-Line Filer;

(10) failure on the part of an On-Line Filer to ensure against the unauthorized use of its EFIN and/or ETIN;

(11) failure on the part of an On-Line Filer to cooperate with the Service's efforts to investigate electronic filing abuse;

(12) violation of the advertising standards described in section 11 of this revenue procedure;

(13) failure to maintain and make available records as described in section 5.20 of this revenue procedure;

(14) failure to supply a taxpayer with an accurate DCN;

(15) failure to give effective instructions to a taxpayer concerning the entry of the DCN on Form 8453-OL;

(16) failure to timely submit a revised Form 8633 (or a letter containing the same information contained in a revised Form 8633) notifying the Service of changes described in section 4.03 or 4.04 of this revenue procedure; or

(17) failure to comply with a provision of an implementing document for any pilot program in which the On-Line Filer is a participant (see section 15 of this revenue procedure).

.07 The Service may list in the Internal Revenue Bulletin, district office listings, district office newsletters, and on the EFS Bulletin Board the name and owner(s) of any entity suspended from the Form 1040 On-Line Filing Program and the effective date of the suspension.

.08 If a participant is suspended from participating in the Form 1040 On-Line Filing Program, the period of suspension includes the remainder of the calendar year in which the suspension occurs plus the next two calendar years. A suspended participant may submit a new application for the application period immediately preceding the end of the suspension.

SECTION 13. ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE FORM 1040 ON-LINE FILING PROGRAM

.01 An applicant that has been denied participation in the Form 1040 On-Line Filing Program has the right to an administrative review. During the administrative review process, the denial of participation remains in effect.

.02 In response to the submission of a Form 8633, the Application Processing Center will either (1) accept an applicant into the Form 1040 On-Line Filing Program, or (2) issue a proposed letter of denial that explains to the applicant why the Application Processing Center proposes to reject the application to participate in the Form 1040 On-Line Filing Program.

.03 An applicant who receives a proposed letter of denial may mail or deliver, within 30 calendar days of the date of the proposed letter of denial, a written response to the Application Processing Center. The applicant's response must address the Application Processing Center's reason(s) for proposing the denial to participate.

.04 Upon receipt of an applicant's written response, the Application Processing Center will reconsider its proposed letter of denial. The Application Processing Center may either (1) withdraw its proposed letter of denial and accept the applicant into the Form 1040 On-Line Filing Program, or (2) finalize the proposed denial letter.

.05 If an applicant receives a final denial letter from the Application Processing Center, the applicant is entitled to an appeal, in writing, to the Director of Practice.

.06 The appeal must be mailed or delivered to the Application Processing Center within 30 calendar days of the date of the final denial letter. An applicant's written appeal must contain a detailed explanation, with supporting documentation, of why the denial should be reversed.

.07 The Application Processing Center will, upon receipt of a written appeal to the Director of Practice, forward to the Director of Practice its file on the appli-

cant and the material described in section 13.06 of this revenue procedure. The Application Processing Center will forward these materials to the Director of Practice within 15 calendar days of receipt of the applicant's written appeal.

.08 Failure to respond within either of the 30-day periods described in sections 13.03 and 13.06 of this revenue procedure irrevocably terminates an applicant's right to an administrative review or appeal.

.09 If an application for participation in the Form 1040 On-Line Filing Program is denied, the applicant is ineligible to submit a new application for two years from the application date of the denied application.

SECTION 14. ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE FORM 1040 ON-LINE FILING PROGRAM

.01 An On-Line Filer that has been suspended from participation in the Form 1040 On-Line Filing Program has the right to an administrative review. During the administrative review process, the suspension remains in effect.

.02 If an On-Line Filer receives a suspension letter, the On-Line Filer may mail or deliver, within 30 calendar days of the date of the suspension letter, a detailed written explanation, with supporting documentation, of why the suspension letter should be withdrawn. This written response should be sent to the district office or service center that issued the suspension letter.

.03 Upon receipt of the On-Line Filer's written response, the district office or service center will reconsider its suspension of the On-Line Filer. The district office or service center may either (1) withdraw its suspension letter, or (2) affirm the suspension.

.04 If the On-Line Filer receives a letter affirming the suspension, the On-Line Filer is entitled to an appeal, in writing, to the Director of Practice.

.05 The appeal must be mailed or delivered to the district office or service center that issued the suspension letter within 30 calendar days of the date of the letter affirming the suspension. The On-

Line Filer's written appeal must contain detailed reasons, with supporting documentation, for reversal of the suspension.

.06 The district office or service center whose decision to suspend is being appealed will, upon receipt of a written appeal to the Director of Practice, forward its file on the On-Line Filer to the Director of Practice. The district office or service center will also forward to the Director of Practice the material described in section 14.05 of this revenue procedure. The district office or the service center will forward these materials within 15 calendar days of the receipt of an On-Line Filer's written request for appeal.

.07 Failure to appeal within either of the 30-day periods described in sections 14.02 and 14.05 of this revenue procedure irrevocably terminates an On-Line Filer's right to an appeal.

SECTION 15. PILOT PROGRAMS

.01 The Service regularly conducts pilot programs to introduce new technology into the Form 1040 On-Line Filing Program. These pilot programs are usually conducted within a limited geographic area or within a limited taxpayer or On-Line Filer community. The Service establishes rules for participating in these pilot programs and embodies these rules in an implementing document typically referred to as a "Memorandum of Understanding" (MOU) or "Memorandum of Agreement" (MOA). Pilot participants must agree to the provisions of the implementing document in order to participate in the pilot program.

.02 An implementing document supplements this revenue procedure, but does not supersede it. Participants in a pilot program remain subject to the provisions of this revenue procedure unless the im-

plementing document specifically provides otherwise.

.03 A violation of a provision of an implementing document is considered a violation of this revenue procedure and may subject the participant to penalties and/or suspension as provided in this revenue procedure. See section 12.06(17) of this revenue procedure.

SECTION 16. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97-61, 1997-52 I.R.B. 50, is superseded.

SECTION 17. EFFECTIVE DATE

This revenue procedure is effective September 21, 1998.

SECTION 18. INTERNAL REVENUE SERVICE OFFICE CONTACT

All questions regarding this revenue procedure and the on-line filing aspects of this program should be directed to the IRS Headquarters Form 1040 On-Line Filing Program Analyst. The telephone number for this purpose is (202) 283-0265 (not a toll-free number). The address for the IRS Headquarters Form 1040 On-Line Filing Program Analyst is OP:ETA:O:P, 5000 Ellin Road, Lanham, MD 20706.

SECTION 19. 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 1545-1513.

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 4, 5, 8, and 11 of the revenue procedure. This information is required by the IRS to implement the Form 1040 On-Line Filing Program and to enable taxpayers to file their individual income tax returns electronically through the Form 1040 On-Line Filing Program. The information will be used to ensure that taxpayers receive accurate and essential information regarding the filing of their return through the Form 1040 On-Line Filing Program and to identify the persons involved in the filing of a return through the Form 1040 On-Line Filing Program. The collections of information are required to retain the benefit of participating in the Form 1040 On-Line Filing Program. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and recordkeeping burden is 5,926 hours.

The estimated annual burden per respondent/recordkeeper varies from eight (8) minutes to 455 hours, depending on individual circumstances, with an estimated average of 423 hours (or approximately two (2) minutes per on-line electronically filed return). The estimated number of respondents and recordkeepers is 14.

The estimated annual frequency of responses is on occasion.

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.

Part IV. Items of General Interest

Changes to Forms W-2 and W-3 Delayed Until Tax Year 2000

Announcement 98-84

Background	In Announcement 98-55, 1998-26 I.R.B. 41, the IRS asked for comments on proposed changes to Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements. These changes had been proposed for the 1999 forms to be filed in 2000.
Changes Will Be Delayed	<p>Based on comments and suggestions received in response to Announcement 98-55, the IRS will postpone making major revisions to Forms W-2 and W-3 until tax year 2000; that is, the year 2000 forms filed in 2001. However, see the changes to the 1999 forms noted below.</p> <p>The Service is delaying implementation to adequately consider all comments received and to give the payroll industry sufficient time to prepare for the changes. Many employers voiced concerns that changes to Forms W-2 and W-3 would hinder efforts to update systems for the year 2000 date change.</p>
1999 Forms W-2 and W-3	<p>The 1999 Forms W-2 and W-3 will remain the same size and retain the same format as the 1998 forms. However, the following changes will be made:</p> <ul style="list-style-type: none">• The use of Form W-2, box 12, "Benefits included in box 1," will be optional. However, employers must continue to report the lease value of a vehicle provided to an employee either in box 12 or in a separate statement to the employee.• Form W-3 will be a single copy with separate instructions provided in the "Instructions for Forms W-2 and W-3." The second page, "YOUR COPY," is eliminated.
2000 Forms W-2 and W-3	The IRS plans to announce and request comments on proposed changes to the year 2000 Forms W-2 and W-3 early in 1999.

Announcement 98-85

The application forms used to request determination letters for ongoing qualified employee benefit plans have been revised. The revised forms are Forms 5300, 5303, 5307, and 6406. The new revision date for all forms is July 1998 (7/98). Except for the revision date, no significant changes have been made. Therefore, the current version of each form may continue to be used until further notice.

Schedule Q (Form 5300) has also been revised as of July 1998 to incorporate the changes made to IRC 401(a)(26) by the Small Business Job Protection Act of 1996, and to clarify that item 5 of Schedule Q, relating to coverage information, must be completed for nonstandardized safe harbor plans. Because of these modifications, the July 1998 version of Schedule Q must be used for applications submitted after December 31, 1998. Further,

effective immediately, Schedule Q is not required to be filed for governmental plans.

The revised forms and instructions will be available after October 1, 1998, and may be obtained from IRS distribution centers by calling 1-800-TAX FORM after that date. Except for Schedule Q (Form 5300), one copy of page one of the Form 5300 series applications is in scannable format and printed in special red ink. For these reasons, the Internet version of this page may not be used instead of the original. However, the forms may be computer generated as described in Notice 90-38. Notice 90-38 provides instructions for generating an "OCR Data Sheet" that may be substituted for the pink shaded copy of page one of each application.

The Internet address is: <http://www.irs.ustreas.gov>

Software developers having approval to computer generate these forms need

not request reapproval if they choose to update the revision date for the application forms identified above. However, Schedule Q (Form 5300) and the related instructions must be changed to be word-for-word identical to the revised schedule. Because Schedule Q is not scannable, advance approval after making this modification is not required.

The revision dates that are currently acceptable are:

Form Number	Revision date
5300	1/96 & 7/98
5303	1/96 & 7/98
5307	3/96 & 7/98
6406	1/96 & 7/98
Not revised at this time:	
5310	1/96 & 6/97 (see Announcement 97-81)
5310A	6/97 (see Announcement 97-81)

Deletions From Cumulative List of Organizations Contributions to Which Are Deductible Under Section 170 of the Code

Announcement 98-86

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on September 21,

1998, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1).

For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Center for Affordable Housing
Baltimore, MD

Charlotte Chamber Foundation, Inc.
Charlotte, NC

Professional Football Alumni, Inc.
Metairie, LA

St. Matthew Publishing, Inc.,
f/k/a Church and Bible Study in the Home
by Mail, Inc.
Los Angeles, CA

Virginia Association of Non-Profit
Homes for the Aging
Glen Allen, VA

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

This announcement serves notice to potential donors that the organization listed

below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1). In the case of individual contributors, the maximum amount of contributions protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Larry Lea Ministries, Inc.
Sherman, TX

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C.—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.

E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPFH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.

PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List¹

Bulletins 1998–29 through 37

Announcements:

98–62, 1998–29 I.R.B. 13
98–68, 1998–29 I.R.B. 14
98–69, 1998–30 I.R.B. 16
98–70, 1998–30 I.R.B. 17
98–71, 1998–30 I.R.B. 17
98–72, 1998–31 I.R.B. 14
98–73, 1998–31 I.R.B. 14
98–74, 1998–31 I.R.B. 15
98–75, 1998–31 I.R.B. 15
98–76, 1998–32 I.R.B. 64
98–77, 1998–34 I.R.B. 30
98–78, 1998–34 I.R.B. 30
98–79, 1998–34 I.R.B. 31
98–80, 1998–34 I.R.B. 32
98–81, 1998–36 I.R.B. 35
98–82, 1998–35 I.R.B. 17
98–83, 1998–36 I.R.B. 36

Court Decisions:

2063, 1998–36 I.R.B. 13
2064, 1998–37 I.R.B. 4

Notices:

98–36, 1998–29 I.R.B. 8
98–37, 1998–30 I.R.B. 13
98–38, 1998–34 I.R.B. 7
98–39, 1998–33 I.R.B. 11
98–40, 1998–35 I.R.B. 7
98–41, 1998–33 I.R.B. 12
98–42, 1998–33 I.R.B. 12
98–43, 1998–33 I.R.B. 13
98–44, 1998–34 I.R.B. 7
98–45, 1998–35 I.R.B. 7
98–46, 1998–36 I.R.B. 21
98–47, 1998–37 I.R.B. 8

Railroad Retirement Quarterly Rate:

1998–31 I.R.B. 7

Proposed Regulations:

REG–209446–82, 1998–36 I.R.B. 24
REG–209813–96, 1998–35 I.R.B. 9
REG–246256–96, 1998–34 I.R.B. 9
REG–104641–97, 1998–29 I.R.B. 9
REG–106177–97, 1998–37 I.R.B. 33
REG–115446–97, 1998–36 I.R.B. 23
REG–116608–97, 1998–29 I.R.B. 12
REG–119227–97, 1998–30 I.R.B. 13
REG–110332–98, 1998–33 I.R.B. 18
REG–110403–98, 1998–29 I.R.B. 11

Revenue Procedures:

98–40, 1998–32 I.R.B. 6
98–41, 1998–32 I.R.B. 7
98–42, 1998–28 I.R.B. 9
98–43, 1998–29 I.R.B. 8
98–44, 1998–32 I.R.B. 11
98–45, 1998–34 I.R.B. 8
98–46, 1998–36 I.R.B. 21
98–47, 1998–37 I.R.B. 8
98–49, 1998–37 I.R.B. 9
98–52, 1998–37 I.R.B. 12

Revenue Rulings:

98–34, 1998–31 I.R.B. 12
98–35, 1998–30 I.R.B. 4
98–36, 1998–31 I.R.B. 6
98–37, 1998–32 I.R.B. 5
98–38, 1998–32 I.R.B. 4
98–39, 1998–33 I.R.B. 4
98–40, 1998–33 I.R.B. 4
98–41, 1998–35 I.R.B. 6
98–42, 1998–35 I.R.B. 5
98–43, 1998–36 I.R.B. 9
98–44, 1998–37 I.R.B. 4

Treasury Decisions:

8771, 1998–29 I.R.B. 6
8772, 1998–31 I.R.B. 8
8773, 1998–29 I.R.B. 4
8774, 1998–30 I.R.B. 5
8775, 1998–31 I.R.B. 4
8776, 1998–33 I.R.B. 6
8777, 1998–34 I.R.B. 4
8778, 1998–36 I.R.B. 4
8779, 1998–36 I.R.B. 11

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 1998–1 through 1998–28 will be found in Internal Revenue Bulletin 1998–29, dated July 20, 1998.

Finding List of Current Action on Previously Published Items¹

Bulletins 1998–29 through 37

*Denotes entry since last publication

Revenue Procedures:

83–58
Obsolated by
98–37, 1998–32 I.R.B. 5

Revenue Rulings:

57–271
Obsolated by
98–37, 1998–32 I.R.B. 5

67–301
Modified by
98–41, 1998–35 I.R.B. 6

70–225
Obsolated by
98–44, 1998–37 I.R.B. 4

71–277
Obsolated by
98–37, 1998–32 I.R.B. 5

71–434
Obsolated by
98–37, 1998–32 I.R.B. 5

71–574
Obsolated by
98–37, 1998–32 I.R.B. 5

72–75
Obsolated by
98–37, 1998–32 I.R.B. 5

72–120
Obsolated by
98–37, 1998–32 I.R.B. 5

72–121
Obsolated by
98–37, 1998–32 I.R.B. 5

72–122
Obsolated by
98–37, 1998–32 I.R.B. 5

74–77
Obsolated by
98–37, 1998–32 I.R.B. 5

75–19
Obsolated by
98–37, 1998–32 I.R.B. 5

76–562
Obsolated by
98–37, 1998–32 I.R.B. 5

77–214
Obsolated by
98–37, 1998–32 I.R.B. 5

79–106
Obsolated by
98–37, 1998–32 I.R.B. 5

83–113
Obsolated by
98–37, 1998–32 I.R.B. 5

85–143
Obsolated by
98–37, 1998–32 I.R.B. 5

Revenue Rulings—Continued

88–8
Obsolated by
98–37, 1998–32 I.R.B. 5

88–76
Obsolated by
98–37, 1998–32 I.R.B. 5

88–79
Obsolated by
98–37, 1998–32 I.R.B. 5

93–4
Obsolated by
98–37, 1998–32 I.R.B. 5

93–5
Obsolated by
98–37, 1998–32 I.R.B. 5

93–6
Obsolated by
98–37, 1998–32 I.R.B. 5

93–30
Obsolated by
98–37, 1998–32 I.R.B. 5

93–38
Obsolated by
98–37, 1998–32 I.R.B. 5

93–49
Obsolated by
98–37, 1998–32 I.R.B. 5

93–50
Obsolated by
98–37, 1998–32 I.R.B. 5

93–53
Obsolated by
98–37, 1998–32 I.R.B. 5

93–81
Obsolated by
98–37, 1998–32 I.R.B. 5

93–91
Obsolated by
98–37, 1998–32 I.R.B. 5

93–92
Obsolated by
98–37, 1998–32 I.R.B. 5

93–93
Obsolated by
98–37, 1998–32 I.R.B. 5

94–5
Obsolated by
98–37, 1998–32 I.R.B. 5

94–6
Obsolated by
98–37, 1998–32 I.R.B. 5

94–30
Obsolated by
98–37, 1998–32 I.R.B. 5

94–51
Obsolated by
98–37, 1998–32 I.R.B. 5

94–79
Obsolated by
98–37, 1998–32 I.R.B. 5

Revenue Rulings—Continued

95–2
Obsolated by
98–37, 1998–32 I.R.B. 5

95–9
Obsolated by
98–37, 1998–32 I.R.B. 5

97–37
Obsolated by
98–39, 1998–33 I.R.B. 4

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