



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

OFFICE OF
CHIEF COUNSEL

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INTERNAL REVENUE SERVICE NATIONAL OFFICE SERVICE CENTER ADVICE

MEMORANDUM FOR JIMMY L. SMITH
DIRECTOR, SUBMISSION PROCESSING W:CAS:SP:IMF:R

FROM: Curtis G. Wilson, Assistant Chief Counsel (Administrative
Provisions and Judicial Practice) CC:PA:APJP

SUBJECT: Signature Requirements for Extensions of Time to File

This Chief Counsel Advice responds to your memorandum dated August 22, 2001. In accordance with I.R.C. § 6110(k)(3), this Chief Counsel Advice should not be cited as precedent.

ISSUE

What is the legal authority for the signature requirements for the various extension forms?

CONCLUSION

Under the section 6081 regulations, Forms 4868 and 8736 do not require a signature for Service approval. Forms 2350, 2688, 2758, 4768, 5558, 7004, 8800, and 8868 do require a signature.

LAW AND ANALYSIS

Section 6061(a) provides the general rule for the signing of returns and other documents required to be made under any provision of the internal revenue laws or regulations. Under section 6061(a) any such document must be signed in accordance with forms or regulations. When the regulations require a signature, then the form must also require a signature. When the regulations are silent on the signature requirement, a signature is required if the form sets forth a signature requirement. In such instance, if the Service believes that there is no longer a need for a signature, the particular form can be revised to remove the signature block.

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The following forms do not require a signature for Service approval.

1. Form 4868, Application for Automatic Extension of Time To File U.S. Individual Tax Return, is governed by Treas. Reg. § 1.6081-4(a)(2). Generally, an application for extension of any return of tax imposed by Subtitle A or Subtitle F requires a signature. When the regulations for automatic extensions of individual income tax returns were amended in 1996, the signature requirement was removed. See Preamble, 61 FR 69027 at 69028; T. D. 8703.
2. Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts, is governed by Treas. Reg. § 1.6081-2(b), 1.6081-6(b), and 1.6081-7(b). The final regulations removed the regulatory requirement that Forms 8736 be signed. See Preamble, 61 FR 69027 at 69029; T. D. 8703.

The following forms require a signature for approval.

1. Form 2350, Application for Extension of Time To File U.S. Income Tax Return, is governed by Treas. Reg. § 1.911-7(c)(2) and 1.6081-1(b). The latter regulations provide that the request for this extension must be signed by the taxpayer or the taxpayer's duly authorized agent.
2. Form 2688, Application for Additional Extension of Time To File U.S. Individual Tax Return, is governed by the general requirements for requesting an extension in Treas. Reg. § 1.6081-1(b)(1). Under this regulation the request for extension must be signed by the taxpayer or the taxpayer's duly authorized agent.
3. Form 2758, Application for Extension of Time To File Certain Excise, Income, Information and Other Returns, is governed by Treas. Reg. § 1.6081-1(b)(1), 55.6081-1, and 156.6081-1. Form 2758 covers extension requests for multiple forms. The forms required under Subtitle A or Subtitle F are governed by Treas. Reg. § 1.6081-1(b)(1), which requires the taxpayer's signature for extension requests. The other forms, which are not under Subtitle A or Subtitle F, are governed by the general signature provisions under section 6061(a). Section 6061(a) provides that if a form or regulation requires a signature, it must be signed. Form 2758 currently requires a signature. Further, unlike the applications for automatic extensions, Form 2758 requires a full recital of the reason for the extension. Forms which require such a recital of facts must be signed by the taxpayer under penalties of perjury.

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4. Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes, is governed by Treas. Reg. § 20.6081-1. This regulation provides for both an automatic 6-month extension of time to file and an additional extension. Treas. Reg. § 20.6081-1 does not address a signature requirement. Under section 6061(a), when the regulations are silent on the signature requirement, a signature is required if the form sets forth a signature requirement. Form 4768 currently requires a signature.
5. Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, is governed by the general requirements for requesting an extension found in Treas. Reg. § 1.6081-1(b)(1). Under this regulation the request for extension must be signed by the taxpayer or the taxpayer's duly authorized agent.
6. Form 7004, Application for Automatic Extension of Time To File Corporation Income Tax Returns, is governed by Treas. Reg. § 1.6081-3. Treas. Reg. § 1.6081-3(a)(1) requires that the Form 7004 must be signed by a person authorized by the corporation to request the extension.
7. Form 8800, Application for Additional Extension of Time To File U.S Return for a Partnership, REMIC, or for Certain Trusts, is governed by the general requirements for requesting an extension found in Treas. Reg. § 1.6081-1(b)(1). Under this regulation the request for extension must be signed by the taxpayer or the taxpayer's duly authorized agent.
8. Form 8868, Application for Extension of Time To File an Exempt Organization Return (including automatic 3-month extension), is governed by Treas. Reg. § 1.6081-1(b)(1). In your incoming memorandum you had stated that Form 8868 did not require a signature for the 3-month extension This is not correct. Form 8868 requires a signature for approval of both the automatic 3-month extension and the additional 3-month extension. The automatic 3-month extension has not been addressed in the regulations, and should be considered under Treas. Reg. §1.6081-1(b), which requires the taxpayer's or the taxpayer's duly authorized agent's signature on a request for extension.

If you have any questions regarding this response, please contact Branch 2 of the Administrative Provisions & Judicial Practice Division at (202) 622-4940.

By: JUDITH M. WALL
Chief, Branch 2