

**Office of Chief Counsel  
Internal Revenue Service  
memorandum**

CC:PA:01:MEHara  
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SE:W:CAS:SP:BOM:ETE  
(Small Business and Self-Employed)

from: Blaise Dusenberry  
Senior Technician Reviewer, Branch 1  
CC:PA:1  
(Procedure & Administration)

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subject: IRM 3.42.4 - IRS e-file for Business Tax Returns

This Advice responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUE

What is an acceptable signature for the Form 8453 series for business returns and the Returned Statement of Receipt (SoR) for the 94x On-Line Signature PIN (Letter 3083).

SUMMARY CONCLUSION

Unless specifically provided for in published guidance, signatures on Internal Revenue Service (Service) documents must be manually signed. Electronic signatures on Service documents are legally valid only if specifically allowed in published guidance. Notice 2007-79, 2007-42 I.R.B. 809 authorizes electronic return originators to use alternative methods to sign the Form 8453, *U.S. Individual Income Tax Declaration for an IRS e-file Return*. As there is no published guidance authorizing the signing of the Form 8453 series for business returns and Letter 3083 by alternative of electronic means, these documents must be manually signed.

BACKGROUND

You have received questions from other functions that work the business e-file programs and have requested our views regarding acceptable signature methods for the Form 8453 series for business returns and Letter 3083. You have also asked whether signatures in digital or other electronic form are acceptable (*i.e.*, by rubber stamp, mechanical device, facsimile or computer software program) for the Form 8453 and Letter 3083. You also asked whether there is a Revenue Procedure or Internal Revenue Code (Code) section that addresses alternative signatures, similar to Notice 2007-79, for all business returns.

### LAW AND ANALYSIS

Section 6061(a) of the Code provides the general rule that any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary. Section 6061(b)(1) provides that the Service shall establish procedures for accepting signatures in digital or other electronic form. The Code does not provide detailed rules for the use of electronic signatures beyond authorizing their use in section 6061(b)(1).

Unless specifically provided for in published guidance, signatures on Service documents must be manually signed. Electronic signatures on Service documents are legally valid only if specifically allowed in published guidance. Notice 2007-79, 2007-42 I.R.B. 809, authorizes electronic return originators (EROs) to use alternative methods to sign the Form 8453, *U.S. Individual Income Tax Declaration for an IRS e-file Return*. Notice 2007-79 specifically provides:

This notice provides that the Internal Revenue Service will allow Electronic Return Originators (EROs) to sign the following forms by rubber stamp, mechanical device (such as signature pen), or computer software program: Form 8453, *U.S. Individual Income Tax Declaration for an IRS e-file Return* . . . .

. . . .

This notice applies only to EROs that sign Form 8453, Form 8878, or Form 8879, *and does not alter the signature requirements for any other type of document currently required to be manually signed*, such as elections, applications for changes in accounting method, powers of attorney, or consent forms. *In addition, this notice does not alter the requirement that Form 8453, Form 8878, or Form 8879 be signed by the taxpayer making these forms by handwritten signature or other authorized means.* (emphasis added).

Notice 2007-79 only authorizes the use of alternative signature methods on the Form 8879, *U.S. Individual Income Tax Declaration for an IRS e-file Return*, and *not other*

members of the Form 8879 family relating to business. And it only authorizes use of alternative signature methods by EROs, not by individuals.

As there is no published guidance authorizing the signing of the Form 8453 series for business returns and Letter 3083 by alternative of electronic means, these documents must be manually signed.

You also asked whether there is a Revenue Procedure or Code section that addresses alternative signature methods, similar to Notice 2007-79, for all business returns.

Counsel has issued some published guidance on alternative signature methods covering several forms, though not comprehensively. Notice 2004-54, 2004 C.B. 209, broadly authorizes return preparers to sign original returns, amended returns, and or requests for filing extensions with computer software. Notice 2004-54 also provides:

This notice applies only to income tax return preparers as defined by Treas. Reg. § 301.7701-15(a) and does not alter the signature requirements for any other type of document currently required to be manually signed, such as elections, applications for changes in accounting method, powers of attorney, or consent forms. In addition, this notice does not alter the requirement that tax returns or requests for filing extensions be signed by the person (*i.e.*, the taxpayer) making the return or the request by handwritten signature or other authorized means.

And as discussed above, Notice 2007-79 extended this authority to electronic return originators to use alternative methods to sign (1) *Form 8453, U.S. Individual Income Tax Declaration for an IRS e-file Return*, Form 8878, (2) *IRS e-file Signature Authorization for Form 4868 or Form 2350*, and (3) *Form 8879, IRS e-file Signature Authorization*.

Rev. Proc. 2005-39, 2005-2 C.B. 82, authorized signing by computer software of: (1) any form within the Form 94X series (including, but not limited to, Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*; Form 941, *Employer's Quarterly Federal Tax Return*; Form 943, *Employer's Annual Federal Tax Return for Agricultural Employees*; and Form 945, *Annual Return of Withheld Federal Income Tax*);

(2) Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*;

(3) Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*; and

(4) Form CT-1, *Employer's Annual Railroad Retirement Tax Return*; or

(5) any variant of these forms (e.g., Form 941c, *Supporting Statement to Correct Information*; Form 941-SS, *Employer's Quarterly Federal Tax Return*). Rev. Proc. 2005-39 provides:

Officers or agents using a facsimile means of signature are personally responsible for ensuring that their facsimile signature is affixed to returns. The person filing the form must retain a letter, signed by the officer or agent authorized to sign the return, declaring under penalties of perjury that the facsimile signature appearing on the form is the signature adopted by the officer or agent and that the facsimile signature was affixed to the form by the officer or agent or at his or her direction. The letter must list each return by name and identifying number. The letter should not be sent to the Internal Revenue Service unless specifically requested by the Service. The letter shall be maintained for at least four years after the due date of such tax as the return relates, or the date such tax is paid, whichever is later.

The Department of Treasury and the Service had a revenue procedure project that was announced in its Published Guidance Plans for 2015 and 2016. That revenue procedure would have covered alternative signatures for all Service documents, including business returns, but the revenue procedure was not issued. There are no current efforts to include an alternative signature project in future Published Guidance Plans.

Please call (202) 317-5417 if you have any further questions.