

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

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to: Shawn M Baker
(Services and Enforcement Program Management Office)

from: Elizabeth Girafalco Chirich, Branch Chief (Branch 1)
(Procedure & Administration)

subject: Authority to Mandate Tax-Software Developers to Embed Two-Dimensional Barcodes on Returns and Forms or to Incorporate Two-Dimensional Barcodes on Returns and Forms that the IRS Designs and Issues

This memorandum responds to your request for assistance on whether the IRS has authority to mandate that tax-software developers embed two-dimensional barcodes on all tax returns, including Forms 1040 and 1120, and other forms and schedules that are printed from their software and then paper-filed. You also asked whether the IRS may embed two-dimensional barcodes on all the returns, forms, and schedules that the IRS designs and makes available to taxpayers and third parties.

ISSUES

1. Does the IRS have authority to mandate that tax-software developers embed a two-dimensional scannable barcode in all tax returns, forms, and schedules that would enable the IRS to quickly convert a paper-filed tax return into machine-readable format?
2. Can the IRS incorporate two-dimensional barcodes as a design element on all returns, forms, and schedules posted to IRS.gov or otherwise made available to taxpayers and third parties?

CONCLUSIONS

1. No. The IRS does not have authority to require that tax-software developers include barcodes on returns, forms, and schedules created through their software.
2. Yes. The IRS has broad authority to design its own tax returns, forms, and schedules to incorporate a scannable bar code on those documents.

FACTS

Many third-party tax-software developers allow taxpayers and other filers to prepare returns, forms, and related schedules using their software and then print a copy of what they prepared to file with the IRS on paper, rather than e-filing the documents through the software program. When the IRS receives these paper-filed returns, forms, and schedules—regardless of whether they are submitted by filers who used a third-party tax-software program or by filers who used IRS returns and forms that the IRS makes available to the public, such as on IRS.gov or at taxpayers' request¹—IRS employees manually enter the information on those returns, forms, and schedules into the IRS's systems. This manual process is resource intensive and error prone.

The IRS could improve its timeliness and accuracy in processing returns, however, if those paper-filed returns, forms, and schedules included scannable two-dimensional barcodes. It is contemplated that a two-dimensional barcode would be generated when a filer completes a return, form, or schedule online, either through IRS.gov or a third-party tax-software program, and then prints it. If the printed return, form, or schedule is submitted to the IRS, an IRS employee could scan the barcode to capture the information on the document and convert it into electronic format (rather than manually input the information).² Filers would not be required to complete returns or forms online.

LAW AND ANALYSIS

1. The IRS cannot require tax-software developers to embed barcodes on returns prepared on their software.

There is no authority under the Internal Revenue Code (IRC) to mandate that tax-software developers embed scannable barcodes when paper-filed returns are prepared through their software. Section 6011(e)(1), which provides the Treasury Department and the IRS authority to prescribe regulations to determine "which returns must be filed on magnetic media or in other machine-readable form," does not apply here, because the proposed mandate is not directed to taxpayers or other filers. Authority related to regulating return preparers is also inapplicable because tax-software developers are not considered tax-return preparers under section 7701(a)(36). Legislation would thus be required to mandate that tax-software developers include scannable barcodes on paper-filed returns produced through their software.

The IRS may, however, request that tax-software developers incorporate scannable barcodes on paper-filed returns created through their software. States, for example,

¹ Taxpayers can order forms directly through the [Tax Forms Outlet Program](#).

² U.S. Gov't Accountability Office, GAO-18-544, *Tax Fraud and Noncompliance: IRS Could Further Leverage Return Review Program to Strengthen Tax Enforcement 23-24* (2018) (noting the advantage of two-dimensional barcodes to electronically capture tax-return information).

have asked them to do this with respect to state returns, explaining that they will be able to advertise faster refunds to their customers who choose to paper file. The IRS could facilitate software developers that voluntarily adopt barcodes by providing standards and technical assistance to them, which many states also do with respect to state returns.

2. The IRS can incorporate barcodes into returns and forms it designs and issues.

The IRC and regulations do not limit the IRS's ability to design IRS returns, forms, and schedules that it makes available to taxpayers and other filers. The IRS's authority under section 6011(a)—to require taxpayers to “make a return or statement according to the forms or regulations prescribed by the Secretary”—encompasses designing forms with scannable barcodes that would make the IRS more efficient. Embedding bar codes would impose no additional burden on taxpayers or other filers because there would be no mandate that filers use only returns, forms, and schedules with scannable barcodes.

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Please call Chris Whitcomb (202) 317-4210 if you have any further questions.