

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

CC:PA:06:JJSong  
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date: August 24, 2021

to: Timothy J. Sample  
Senior Program Analyst, Collection Policy  
Independent Office of Appeals

from: Joy Gerdy Zogby  
Senior Technician Reviewer  
(Procedure & Administration)



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subject: Destruction of original paper document with penalties of perjury statement signed by taxpayer and admissibility into evidence of electronic copy of original

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

**ISSUE**

[REDACTED]

**CONCLUSION**

[REDACTED]

**ANALYSIS**

The Federal Records Act, 44 U.S.C. § 3302, was amended in 2014 to require NARA to promulgate regulations establishing standards for digitizing records so that agencies can destroy original records. See FAQs about NARA's Digitalization Regulation, <https://www.archives.gov/records-mgmt/faqs/digitization-regulation>. NARA's digitization regulation, 36 C.F.R. 1236, provides that an agency may destroy a temporary original record that has been digitalized and validated in accordance with certain established

standards. 36 C.F.R. § 1236.30. The IRS’s digitization rules are found in IRM 1.15.6.15.

Rule 1002 of the Federal Rules of Evidence (FRE) requires an original writing “in order to prove its contents unless [the FRE] or a federal statute provides otherwise.” FRE Rule 1003 provides that “[a] duplicate is admissible to the same extent as the original unless a genuine question is raised about the original’s authenticity or the circumstances make it unfair to admit the duplicate.” FRE Rule 1001(e) defines a duplicate as “a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.” Courts have admitted into evidence scanned copies of original documents where there was no genuine issue of authenticity. *See, e.g., U.S. v. Ramentol*, 410 F. App’x 236, 242 (11th Cir. 2010); *United States v. Hofstetter*, 423 F.Supp.3d 502, 506-08 (E.D. Tenn. 2019); *In re Lopez*, No. 11–19985–A–7, 2012 WL 8255524, at \*2 (Bankr. E.D. Cal. Jan. 5, 2012); *Pacific Bell Directory v. William Muhr, LLC*, CV 04-9657 SVW(FMOx), 2007 WL 9702830, at \*6 (C.D. Cal. Mar. 3, 2007).

We are unaware of any cases in which a court considered the admissibility of a duplicate of an original document with a signed penalties of perjury statement. We are also unaware of any special rules for original documents with a signed penalties of perjury statement such that the general rule in FRE 1003 permitting a duplicate to be admissible would not apply.

Under the FRE, a scanned copy of a paper document is admissible, and there is, thus, no need for the original, so long as there is no genuine issue of authenticity. [REDACTED]

[REDACTED]

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Please call me at (202) 317-4927 if you have any further questions.