



OFFICE OF
CHIEF COUNSEL

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

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CC:PA:APJP

AUG 28 2000

MEMORANDUM FOR W. VAL OVELSON
National Taxpayer Advocate (C:TA)
Attn: Faith Vinikoor

FROM: Assistant Chief Counsel (Administrative Provisions and Judicial
Practice) CC:PA:APJP

SUBJECT: Feedback from Practitioners about Requirement to Sign Returns

Your office previously solicited input from practitioners and practitioner organizations concerning suggestions they have for improving operations of the IRS. The Chief Operations Officer has provided a comprehensive response for issues under his jurisdiction, and we are providing a response on the remaining issue, whether the IRS should allow preparers to use signature stamps to "sign" returns, extensions, and other documents.

In regard to tax returns and claims for refunds, section 6695(b) of the Internal Revenue Code imposes a \$50 penalty on a tax return preparer who fails to comply with regulations prescribed by the Secretary that require the preparer to sign the return or refund claim.

Section 1.6695-1(b)(1) of the Income Tax Regulations provides as follows:

"...an individual who is an income tax return preparer with respect to a return of tax...or claim for refund of tax... shall manually sign the return or claim for refund ... in the appropriate space provided on the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature. Except as provided in paragraphs (b)(4)(iii) and (iv) of this section, an individual preparer may not satisfy this requirement by use of a facsimile signature stamp or signed gummed label. If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then shall manually sign the return or claim for refund."
(emphasis added)

Section 1.6695-1(b)(4)(iii) and (iv) provide exceptions to this rule for preparers of returns or claims for refunds for non-resident alien individual taxpayers and for fiduciary return preparers. However, under these subsections, the preparer is required to attach

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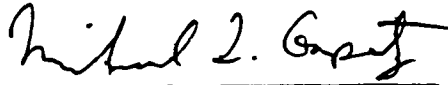
to the returns or claims for refund a manually signed letter stating, under penalties of perjury, that the facsimile signature appearing on the returns or claims for refund is the signature used by the preparer to sign these documents.

The preamble to the regulation provides the reasoning behind the manual signature requirement. Requiring a manual signature is a means of making the return preparer affirmatively assume and acknowledge that he or she is assuming personal responsibility for the preparation of the document. The preamble further states that requiring the manual signature will encourage more careful preparation and review of returns and claims for refund by preparers. Further, the preamble indicates that because rubber stamps or other facsimile signature devices can easily be used by others who have not prepared the returns, these are not acceptable alternatives to providing a manual signature. Also, if facsimile signature stamps were allowed, this could present the IRS with a serious problem of proving whether the purported signer had actually signed the document when the liability of the signing preparer (e.g. for penalties under section 6694) is at issue. T.D. 7519, 1978-1 C.B. 394.

Thus, an amendment to section 1.6695-1(b)(1) would be required in order to allow practitioners to use facsimile signature stamps to sign returns or claims for refund, and the reasoning in the preamble to T.D. 7519 would have to be reconsidered. As to the suggestion that practitioners be allowed to use facsimile signature stamps when filing for extensions, neither the taxpayer's nor the practitioner's signature is required on the application for an automatic four-month extension to file an individual income tax return (Form 4868). If the taxpayer seeks an additional extension, Form 2688 must be filed. Form 2868 requires an adequate explanation of why an additional extension is necessary, and the Form must be signed by the taxpayer or the preparer under penalties of perjury. In general, applications for extension must be signed by the taxpayer or the preparer, as required by section 1.6081-1(b), but an exception is made for the initial four-month extension. See section 1.6081-4.

If you have any questions regarding this memorandum, please feel free to call Robin M. Tuczak at (202) 622-7132.

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