

26 CFR. 601.602: Tax forms and instructions.
(Also Part 1, Sections 3504, 6011; 31.3504-1,
31.6011(a)-8, 31.6071(a)-1.)

Rev. Proc. 96-18

Table of Contents

SECTION 1.	PURPOSE
SECTION 2.	BACKGROUND
SECTION 3.	SIGNIFICANT CHANGES
SECTION 4.	DEFINITIONS
SECTION 5.	APPLICATION FOR THE MAGNETIC TAPE PROGRAMS
SECTION 6.	ACCEPTANCE IN THE MAGNETIC TAPE PROGRAMS
SECTION 7.	ADDING AND DE- LETING TAXPAYERS ON THE REPORTING AGENT'S LIST
SECTION 8.	MAGNETIC TAPE FILING
SECTION 9.	ADJUSTMENTS
SECTION 10.	RESPONSIBILITIES OF A REPORTING AGENT
SECTION 11.	PAPER RETURNS
SECTION 12.	REVISION OF COM- PUTER SPECIFICA- TIONS BY THE SERVICE
SECTION 13.	CHANGES IN COM- PUTER EQUIPMENT BY AN AGENT
SECTION 14.	ADVERTISING STANDARDS FOR A REPORTING AGENT
SECTION 15.	REASONS FOR SUSPENSION
SECTION 16.	ADMINISTRATIVE REVIEW PROCESS FOR PROPOSED SUSPENSION
SECTION 17.	EFFECT OF SUS- PENSION
SECTION 18.	APPEAL OF SUS- PENSION
SECTION 19.	PENALTY FOR FAILURE TO TIMELY FILE A RETURN
SECTION 20.	FILING FORMS W-4 WITH THE INTER- NAL REVENUE SERVICE
SECTION 21.	FILING FORMS W-2 (COPY A) WITH THE SOCIAL SECURITY ADMINISTRATION

SECTION 22. REQUESTING FORMS AND OTHER INFORMATION

SECTION 23. EFFECT ON OTHER DOCUMENTS

SECTION 24. EFFECTIVE DATE

SECTION 1. PURPOSE

.01 This revenue procedure sets forth the requirements of the various magnetic tape programs under which a Reporting Agent ("Agent" as defined in section 4.04 of this revenue procedure) may file the following forms on magnetic tape: (1) Form 941, Employer's Quarterly Federal Tax Return ("Form 941 Mag Tape Program"); (2) Form 940, Employer's Federal Unemployment Tax Return ("Form 940 Mag Tape Program"); and (3) Form 945, Annual Return of Withheld Income Tax ("Form 945 Mag Tape Program"). These magnetic tape programs are collectively referred to as the "Mag Tape Programs."

.02 The technical specifications for filing these forms on magnetic tape are published separately as follows: (1) Publication 1264, File Specifications, Processing Criteria and Records Layouts for Magnetic Tape Filing of Form 941, Employer's Quarterly Federal Tax Return; (2) Publication 1314, File Specifications, Processing Criteria and Records Layouts for Magnetic Tape Filing of Form 940, Employer's Federal Unemployment Tax Return; and (3) Publication 1833, File Specifications, Processing Criteria and Records Layouts for Magnetic Tape Filing of Form 945, Annual Return of Withheld Income Tax. Publications 1264, 1314, and 1833 are collectively referred to as "Publications."

.03 This revenue procedure supersedes Rev. Proc. 94-18, 1994-1 C.B. 580, Rev. Proc. 93-46, 1993-2 C.B. 545, and Rev. Proc. 94-59, 1994-2 C.B. 747.

SECTION 2. BACKGROUND

.01 Section 31.6011(a)-8 of the Employment Taxes and Collection of Income Tax at Source Regulations provides that the Commissioner may authorize the use, at the option of the person required to make a return, of a composite return in lieu of any form specified in 26 C.F.R. Part 31 (Employment Taxes and Collection of Income Tax at Source), subject to the

conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.02 For purposes of this revenue procedure, a magnetically filed Form 941, 940, or 945 is a composite return consisting of the data transmitted on magnetic tape and a Form 4996, Electronic/Magnetic Media Filing Transmittal for Wage and Withholding Tax Returns. Form 4996 must be received by the Internal Revenue Service before any magnetically filed return is complete. A magnetically filed return must contain the same information as a return filed completely on paper.

.03 Section 31.6011(a)-7 provides that each return, together with any prescribed copies or supporting data, must be filled in and disposed of in accordance with the forms, instructions, and regulations applicable thereto. The return may be made by an Agent in the name of the person required to make the return if an acceptable power of attorney is filed with the Internal Revenue Service office with which such person is required to file returns and if such a return includes all taxes required to be reported by such person on such return. Form 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers, is an acceptable power of attorney, if prepared in accordance with the requirements set forth in Rev. Proc. 96-17, page 00, this Bulletin.

.04 Section 31.6061-1 provides that the return may be signed for the taxpayer by an agent who is fully authorized in accordance with § 31.6011(a)-7 to make such return. An Agent may sign a magnetic tape return on behalf of a taxpayer who has a valid Form 8655 on file with the Service.

.05 Section 31.6071(a)-1 generally provides that each return required to be made under § 31.6011(a)-1 for the taxes imposed by the Federal Insurance Contributions Act (Form 941), or required to be made under § 31.6011(a)-4 for withheld income taxes (Form 941 and Form 945), or each return required to be made under § 31.6011(a)-3 for the taxes imposed by the Federal Unemployment Tax Act (Form 940), must be filed on or before the last day of the first calendar month following the period for which it is made. However, under § 31.6071(a)-1 a re-

turn may be filed on or before the 10th day of the second calendar month following such period if timely deposits under § 6302(c) of the Internal Revenue Code and the regulations thereunder have been made in full payment of such taxes due for the period.

.06 Procedures for the electronic filing of Form 941 ("Form 941 ELF Program") are in Rev. Proc. 96-19, page , this Bulletin, and the specifications are in the Technical Specifications Guide for the Electronic Filing System for Form 941, Employer's Quarterly Federal Tax Return.

.07 The submission of federal tax deposit ("FTD") information on magnetic tape is addressed in Rev. Proc. 89-48, 1989-2 C.B. 599. For taxpayers who are required to make FTDs by electronic funds transfer pursuant to § 6302(h), the submission of the FTD information along with the transfer of funds is addressed in Rev. Proc. 94-48, 1994-2 C.B. 694.

SECTION 3. SIGNIFICANT CHANGES

.01 The procedures in Rev. Procs. 94-18, 93-46, and 94-59 for the magnetic tape filing of Forms 941, 940, and 945, respectively, have been consolidated in this revenue procedure.

.02 The magnetic tape specifications in Rev. Procs. 94-18, 93-46, and 94-59 are published separately in Publications 1264, 1314, and 1833, respectively.

.03 Section 14 provides advertising standards for an Agent.

.04 Sections 15, 16, 17, and 18 add suspension and appeal procedures.

SECTION 4. DEFINITIONS

.01 *Error Rate.* The "Error Rate" is the percentage of the total volume of tax data records that are identified by the Service's computer program as containing errors (as defined in the applicable Publications).

.02 *Magnetic Tape Coordinator for Business Tax Returns ("Coordinator").* A Magnetic Tape Coordinator for Business Tax Returns ("Coordinator") is responsible for the administration of the Mag Tape Programs at a particular Service Center. See section 22 of this revenue procedure for the addresses of the Coordinators.

.03 *Processing Interruption.* A "Processing Interruption" is an abnor-

mal termination of a program run caused by the magnetic tape data submitted by an Agent.

.04 *Reporting Agent.* A Reporting Agent ("Agent") is an accounting service, franchiser, bank, or other entity that complies with Rev. Proc. 96-17, and is authorized to prepare and file Forms 941, 940, and 945 on magnetic tape for a taxpayer.

.05 *Reporting Agent Authorization.* A Reporting Agent Authorization ("Authorization") allows a taxpayer to designate an Agent. The Authorization may be submitted on Form 8655, or any other instrument that complies with Rev. Proc. 96-17. An Authorization must be submitted for each taxpayer on the Reporting Agent's List.

.06 *Reporting Agent's List.* For purposes of the Mag Tape Programs, a Reporting Agent's List ("Agent's List") identifies all taxpayers for whom an Agent will file returns on magnetic tape. A separate Form 8655 must be submitted for each taxpayer on the Agent's List. The Agent's List must contain each taxpayer's employer identification number ("EIN").

.07 *Validated Reporting Agent's List.* A Validated Reporting Agent's List ("Validated Agent's List") is the source of the EIN and name control to be used as an identification of each taxpayer on magnetic tape by an Agent. A Validated Agent's List is a list of taxpayers and their EINs prepared by an Agent that is confirmed and assigned name controls by the Service. Once the Service returns a Validated Agent's List, the Agent must use it to fill in certain required fields (e.g., the name control field) on the magnetic tape. See the applicable Publications.

SECTION 5. APPLICATION FOR THE MAGNETIC TAPE PROGRAMS

.01 An Agent is automatically eligible to participate in the Mag Tape Program(s) for which the Agent files at least 100 Forms 941, 100 Forms 940, or 100 Forms 945 per tax period. An Agent that files less than 100 Forms 941, 940, or 945 per tax period and wishes to file on magnetic tape must obtain permission from the Coordinator at the service center where the Letter of Application ("Application") would be submitted. See section 5.06 of this revenue procedure for where to submit an Application and section 22 for the addresses of the Coordinators.

.02 An Agent (within the scope of section 5.01 of this revenue procedure) desiring to file Forms 941, 940, or 945 on magnetic tape must first submit an Application to participate in the appropriate Mag Tape Program(s).

.03 An Application must contain the following:

(1) the name, address, and EIN of the Agent submitting the Application;

(2) the name, title, and telephone number of the person to contact regarding the Application;

(3) a list of all the service centers with which the Agent must file returns on behalf of taxpayers. A request to consolidate filings at one service center may be made in the Application immediately after this list;

(4) the first tax period for which the Agent plans to file Forms 941, 940, or 945 on magnetic tape;

(5) the estimated volume of Forms 941, 940, or 945 the Agent plans to file at each service center by type of return;

(6) a statement that the Agent will keep a copy of all the Authorizations on file at the Agent's principal place of business for examination by the Service upon request;

(7) a representation that the Agent will comply with section 10 of this revenue procedure concerning responsibilities of an Agent;

(8) an acknowledgement of any prior suspension from any of the magnetic tape or electronic filing programs, if applicable; and

(9) the signature of the Agent or the Agent's employee authorized to prepare federal tax returns for taxpayers.

.04 An Application must include two types of attachments:

(1) an Agent's List; and

(2) an Authorization (Form 8655) for each taxpayer included on the Agent's List. See Rev. Proc. 96-17 for instructions on preparing Form 8655.

.05 An Agent must submit the Application to the appropriate service center (listed in section 22 of this revenue procedure) that serves the legal residence or principal business address of the largest number of taxpayers filing through that Agent. If the Agent would like to consolidate filings at another service center, the Agent must submit an Application requesting such consolidation to the service center with which the consolidated returns would be filed.

.06 To allow sufficient time for the approval process for the Form 941 Mag Tape Program, the Agent should submit the Application by the Application due dates preceding the quarter ending dates, as follows:

<i>Application Due Date</i>	<i>For Quarter Ending</i>
December 15 (prior year)	March 31
March 15	June 30
June 15	September 30
September 15	December 31

.07 To allow sufficient time for the approval process for the Form 940 or Form 945 Mag Tape Program, the Agent should submit the Application by August 15 of the year preceding the due date of the returns that the Agent will file on magnetic tape.

SECTION 6. ACCEPTANCE IN THE MAGNETIC TAPE PROGRAMS

.01 Within 30 days of receiving an Application, the service center will return a Validated Agent's List to the Agent. Failure to use the names and EINs provided on the Validated Agent's List may delay processing.

.02 After receiving a Validated Agent's List, an Agent must submit a test tape by the following due dates:

(1) in the case of the Form 941 Mag Tape Program, the Agent must submit a test tape by the due dates preceding the corresponding quarter ending dates, as follows:

<i>Test Tape Due Date</i>	<i>For Quarter Ending</i>
January 31	March 31
April 30	June 30
July 31	September 30
October 31	December 31

(2) in the case of the Form 940 or 945 Mag Tape Program, the Agent must submit a test tape by September 30 of the year preceding the due date of the return that will be filed on magnetic tape.

.03 The following criteria are used to evaluate a test tape:

(1) the test tape must be readable by the Service's computers without a Processing Interruption; and

(2) the processed data on the test tape must have an Error Rate of 5 percent or less.

.04 If a test tape fails to meet the evaluation criteria, the Coordinator will notify the Agent. To receive further consideration of the Application, the Agent must submit a new test tape within 30 days of the Service's notification. Submission of a test tape does not constitute the filing of tax returns.

.05 After testing the magnetic tape, the Service will notify the Agent in writing of approval or denial of magnetic tape filing privileges. An approval for each Mag Tape Program remains in effect unless the Agent is suspended from the particular Mag Tape Program. See section 17 of this revenue procedure for the effect of suspension.

.06 If an Agent is denied, or does not receive, approval for magnetic tape filing before the end of the tax period for which Forms 941, 940, or 945 will be filed, the Agent should file the returns on paper Forms 941, 940, or 945.

.07 If an Agent is denied acceptance into a Mag Tape Program, the Agent may reapply for a subsequent tax period by resubmitting an Application and test tape in accordance with sections 5 and 6 of this revenue procedure.

SECTION 7. ADDING AND DELETING TAXPAYERS ON THE REPORTING AGENT'S LIST

.01 After an Agent is notified that the Application for the magnetic tape filing of Forms 941, 940, or 945 has been approved, the Agent may want to add and delete taxpayers from the Mag Tape Program.

.02 To add taxpayers, the Agent must submit the added names and EINs (Add List) and an Authorization for each taxpayer added to a particular Mag Tape Program. The Service must validate the Add List and return it to the Agent before the Agent can file returns for these taxpayers on magnetic tape. The Service will generally validate and mail the Add List to the Agent within 10 business days of receiving the Add List.

.03 To delete taxpayers, the Agent must submit a list of those taxpayers to be deleted (Delete List) and, if known, a short statement indicating which taxpayers will not remain in business.

SECTION 8. MAGNETIC TAPE FILING

.01 An Agent must ensure that a magnetic tape return is filed on or

before the due date of the return. The due dates prescribed for filing paper returns with the Service also apply to returns filed under the Mag Tape Programs. Forms 941, 940, and 945 are due on or before the last day of the first calendar month following the period for which the return is made. However, a return for which all tax deposits were made when due for the filing period may be filed by the 10th day of the month following the due date. In no case may one magnetic tape include returns with more than one due date.

.02 The place for filing returns will be determined according to the following conditions:

(1) under § 6091(b), federal tax returns must be filed at the service center serving the legal residence or principal business address of the taxpayer. However, not all service centers process returns filed on magnetic tape. The service center processing the Application will inform the Agent of which service center serves the legal residence or principal business address of a taxpayer for magnetic tape filing purposes;

(2) an Agent may be required to file taxpayers' magnetic tape returns at more than one service center unless the Agent obtains permission to consolidate filings under section 8.02(4) of this revenue procedure;

(3) if, after submitting the Application, an Agent obtains clients that file at a service center other than a service center(s) listed in the Application, the Agent must provide written notice to the service center that processed the Application. The written notice must be submitted at least 60 days before filing with the additional service center; and

(4) if, after submitting the Application, an Agent wishes to consolidate filings at one service center, the Agent must request permission. Generally, a response will be provided within 21 calendar days. The place to send the request is as follows:

(a) if a request is made before any returns have been filed under a particular Mag Tape Program and the returns will not be filed under that program before the Service acts on the request for consolidation, the request must be sent to the service center processing (or that processed) the Application; or

(b) if magnetic tape returns have already been filed or will be filed

before the Service acts on the request for consolidation, the Agent must send the request to the service center where the Agent requests to consolidate. The request must include a list of all the service centers with which returns have been or will be filed.

.03 An Agent must file magnetic tape returns according to the following instructions:

(1) the first box of the magnetic tape shipment to the service center must contain a Form 4996 with one duplicate, and a list of taxpayers' names and addresses (address is optional) in EIN sequence whose returns are on the magnetic tape being submitted (Control List). These taxpayers must only be those on the Validated Agent's List returned to the Agent. Detailed packaging, shipping, and mailing instructions will be provided in the letter granting approval to file on magnetic tape;

(2) if the Form 4996 is missing, incomplete, or unsigned, the magnetic tape filing does not constitute a tax return. Failure to complete this form accurately will delay the magnetic tape processing; and

(3) in the case of the Form 941 mag tape program, if an employee's wages and tips are exempt from tax on social security or medicare, an Agent must inform the Service by following specific instructions in Publication 1264.

.04 A violation of the following restrictions will cause a Processing Interruption:

(1) in no case may one magnetic tape include returns with more than one due date; or

(2) the magnetic tape must include only data for one form of return (e.g., Form 941). Data for another form of return (e.g., Form 940 or Form 945) must be submitted on a separate magnetic tape.

.05 The service center will send notification to the Agent of receipt of the magnetic tape submission. Unless otherwise advised within 10 business days of the Service's receipt of the Form 4996, an Agent may consider the returns included in that submission timely filed if the postmark date is on or before the due date of the returns. If the Agent does not receive notification of receipt of Form 4996 within 15 days from the date it was sent, the Agent should contact the appropriate Coordinator listed in section 22 of this revenue procedure.

.06 A magnetic tape submission made on or before the due date that causes a Processing Interruption or that has an Error Rate exceeding 5 percent will not be accepted, and the Agent will be asked to submit a replacement magnetic tape, an accompanying Form 4996, and paper returns within 30 days of the Coordinator's request. If the Agent submits the replacement magnetic tape, Form 4996, and paper returns within 30 days, the returns will be considered timely filed. For the penalty for failure to file a timely return, see section 19 of this revenue procedure.

.07 If the replacement magnetic tape is unacceptable, the Coordinator will process the paper returns and notify the Agent. In such circumstances, an Agent is required to submit an acceptable test tape for the next filing date by the test tape due dates set forth in section 6.02 of this revenue procedure.

SECTION 9. ADJUSTMENTS

.01 In the case of a Form 941, adjustments may be made on returns filed on magnetic tape. Except for adjustments resulting from rounding fractions of cents or from third-party sick pay for which an employer is not responsible, any Form 941 filed on magnetic tape with an adjustment to preceding quarters must be supported by a written statement or Form 941c, Supporting Statement to Correct Information, submitted with the magnetic tape. The statement must identify the taxpayer and explain the adjustment. An Agent must send the paper supporting documents and the magnetic tape containing the Forms 941 in the same shipment. For specification details, see Publication 1264.

.02 In the case of a Form 940, an adjustment to a Form 940 filed on magnetic tape must be submitted on paper to the service center where the magnetic tape was filed.

.03 In the case of a Form 945, adjustments must be made as follows:

(1) except as provided in section 9.03(2), an adjustment to a Form 945 filed on magnetic tape must be submitted on paper to the service center where the magnetic tape was filed; and

(2) beginning with 1995 calendar year returns, an Agent may adjust a prior year's Form 945 by entering a correction in a new field on a magnetic tape. However, this adjustment field

only applies to correcting administrative errors. Any Form 945 filed on magnetic tape with an adjustment to a preceding year must be supported by a statement or Form 941c. The statement must identify the taxpayer and explain the adjustment. An Agent must send the paper supporting documents and the magnetic tape containing the corrections to Forms 945 in the same shipment. For specification details, see Publication 1833.

SECTION 10. RESPONSIBILITIES OF A REPORTING AGENT

.01 To ensure that complete returns are accurately and efficiently filed, an Agent must comply with the applicable Publication(s) for the Mag Tape Program(s) in which the Agent is participating. See Publication 1264 (Form 941), 1314 (Form 940), or 1833 (Form 945).

.02 The Agent must retain the following material for 4 years after the due date of the return (or if the return is filed late, for a period of 4 years from the filing date), unless otherwise notified by the Service:

(1) a complete copy of the magnetic tape portion of the return;

(2) a copy of the signed Form 4996;

(3) a copy of the Service's notification of receipt of Form 4996; and

(4) a copy of each Authorization.

.03 An Agent must:

(1) provide the taxpayer with a paper copy of the magnetic tape information that was sent to the Service. This information may be provided on a replica of an official form or on an unofficial form. However, data entries on an unofficial form must refer to the line numbers on an official form;

(2) provide the taxpayer with a copy of the Form 4996;

(3) advise the taxpayer to retain a complete copy of the return (a paper copy of both the magnetic tape information and Form 4996) and any supporting material;

(4) inform the taxpayer of the service center that processes the taxpayer's returns;

(5) advise the taxpayer that an amended return, if needed, must be mailed to the service center that processed the taxpayer's return; and

(6) provide, upon request, the taxpayer with the date the taxpayer's

return was postmarked and with the date of the Service's notification of receipt of the taxpayer's return.

SECTION 11. PAPER RETURNS

.01 An Agent may use a Mag Tape Program Authorization to file paper Forms 941, 940, or 945 only under the following circumstances:

(1) the late receipt of payroll or withholding information from a taxpayer that would jeopardize the timely submission of the taxpayer's return;

(2) the amendment of returns filed under the Mag Tape Programs;

(3) the rejection of a magnetic tape filing that would jeopardize the timely submission of the taxpayer's return; or

(4) a request by the Coordinator for an Agent participating in a Mag Tape Program to file paper returns instead of magnetic tape.

.02 An Agent without a valid power of attorney may prepare a paper return for the taxpayer's signature. A taxpayer's authorized representative that is not an Agent participating in a Mag Tape Program (including a suspended Agent) must have a valid power of attorney (usually a Form 2848, Power of Attorney and Declaration of Representative) that authorizes the Agent to sign and file a paper return on behalf of a taxpayer.

.03 Each paper return must be signed by the taxpayer, the taxpayer's authorized representative, or a participating Agent, to the extent permitted by section 11.01 of this revenue procedure.

SECTION 12. REVISION OF COMPUTER SPECIFICATIONS BY THE SERVICE

.01 If a Publication is revised, the Coordinator(s), if necessary, will advise all current Agents to submit test tapes prior to filing under the new specifications. Failure to submit a test tape may later result in a Processing Interruption or an Error Rate exceeding 5 percent on returns filed on magnetic tape for which an Agent may receive a notice of suspension. See section 15 of this revenue procedure concerning the reasons for suspension of magnetic tape filing privileges.

.02 If an Agent is unable to comply with the changes in specifications, the

Agent must contact the appropriate Coordinator(s) for further instructions. See section 22 of this revenue procedure for addresses.

SECTION 13. CHANGES IN COMPUTER EQUIPMENT BY AN AGENT

If an Agent changes computer equipment, a test tape must be submitted. The requirements in sections 6.02, 6.03, and 6.04 of this revenue procedure must be followed for the submission and acceptance of test tapes. Failure to submit a test tape may later result in a Processing Interruption or an Error Rate exceeding 5 percent on returns filed on magnetic tape for which an Agent may receive a notice of suspension. See section 15 of this revenue procedure.

SECTION 14. ADVERTISING STANDARDS FOR A REPORTING AGENT

.01 An Agent must comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. In addition, advertising must not imply a special relationship with the Service, Financial Management Service (FMS), or the Treasury Department.

.02 An Agent must adhere to all the relevant federal, state, and local consumer protection laws.

.03 An Agent must not use the Service's name, "Internal Revenue Service" or "IRS", within a firm's name.

.04 An Agent must not use improper or misleading advertising in relation to the Mag Tape Programs.

.05 Advertising materials shall not carry the FMS, IRS, or other Treasury Seals.

.06 Advertising for a cooperative magnetic tape return project (public/private sector) must clearly state the names of all cooperating parties.

.07 If an Agent uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The Agent must keep a copy of the pre-recorded advertisement for a period of

at least 36 months from the date of the last transmission or use.

.08 If an Agent uses any direct mailing or fax communications to advertise, the Agent must retain a copy of the actual mailing or fax, along with a list or other description of persons to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36 months from the date of the last mailing, fax, or distribution.

.09 Acceptance to participate in any of the Mag Tape Programs does not imply endorsement by the Service or FMS of the software or quality of services provided.

SECTION 15. REASONS FOR SUSPENSION

.01 The Service reserves the right to suspend an Agent from a Mag Tape Program for the following reasons (this list is not all-inclusive):

(1) failing to submit tax returns on magnetic tape according to the applicable Publication(s) as provided in section 10.01 of this revenue procedure;

(2) failing to retain the required records for the period specified in section 10.02;

(3) failing to provide to the taxpayer the records, information, or advice required by section 10.03;

(4) submitting tax returns for which the Service did not receive Authorizations;

(5) repeatedly submitting tax returns that have an Error Rate exceeding 5 percent or that cause a Processing Interruption (regardless of whether replacement magnetic tapes have been provided timely);

(6) submitting tax returns that have an Error Rate exceeding 5 percent or that cause a Processing Interruption after failing to submit the test tape required by section 12 or 13;

(7) submitting tax returns that are not in full-paid status;

(8) failing to abide by the advertising standards in section 14; or

(9) significant complaints about an Agent's performance in the Mag Tape Program(s).

.02 If the Coordinator informs an Agent that a certain action is a reason for suspension and the action continues, the service center director may send a notice proposing suspension of the Agent. However, a notice proposing

suspension may be sent without a warning if the Agent's action indicates an intentional disregard of rules. A notice proposing suspension will describe the reason(s) for the proposed suspension, and indicate the length of the suspension and the conditions that need to be met before the suspension will terminate.

.03 An Agent has an obligation to notify taxpayers filing through the Agent if and when such Agent is suspended from filing under a particular Mag Tape Program as provided in section 17.04. The Service reserves the right to extend the period of suspension of any Agent that fails to comply with this requirement.

SECTION 16. ADMINISTRATIVE REVIEW PROCESS FOR PROPOSED SUSPENSION

.01 An Agent who receives a notice proposing suspension from one or more of the Mag Tape Programs may request an administrative review prior to the proposed suspension taking effect.

.02 The request for an administrative review must be in writing and contain detailed reasons, with supporting documentation, for withdrawal of the proposed suspension.

.03 The written request for an administrative review and a copy of the notice proposing suspension must be delivered to the Coordinator within 30 calendar days of the date on the notice proposing suspension. The Coordinator will forward the written request to the National Program Analyst for Magnetic Tape Program ("National Coordinator") if the service center director continues to believe that suspension is warranted.

.04 After consideration of the written request for an administrative review, the National Coordinator will either issue a suspension letter or notify the Agent in writing that the proposed suspension is withdrawn.

.05 If an Agent receives a suspension letter, a Coordinator's subsequent determination of whether a reason for suspension has been corrected is not subject to review or appeal.

.06 If an Agent does not timely submit a written request for an administrative review, the service center director will issue a suspension letter.

.07 Failure to submit a written request for an administrative review

within the 30-day period described in section 16.03 of this revenue procedure irrevocably terminates the Agent's right to an administrative review of the proposed suspension.

SECTION 17. EFFECT OF SUSPENSION

.01 The Agent's suspension will continue for the length of time specified in the suspension letter, or until the conditions for terminating the suspension have been met, whichever is later.

.02 If a return to which the suspension applies is due (without regard to extensions) within 60 days from the date on the suspension letter, the Agent may file the return under the Mag Tape Program. If a return to which the suspension applies is due (without regard to extensions) more than 60 days from the date on the suspension letter, the Agent may not file the return under that Mag Tape Program.

.03 A suspended Agent will be able to sign and file paper Forms 940, 941, or 945 for a taxpayer if the Agent has a power of attorney from the taxpayer that authorizes the Agent to sign and file such paper return(s). See section 11.02 of this revenue procedure. Form 8655 does not authorize the filing of paper returns outside of the Mag Tape Program.

.04 An Agent must provide written notification of a suspension to a taxpayer at least 45 days before the due date of the taxpayer's first return affected by the suspension. Such notification must be provided even though the Agent may believe that the Agent will be able to meet the conditions for terminating the suspension before the due date.

.05 An Agent will be able to file returns under the Mag Tape Program from which the Agent was suspended without reapplying to the Program after:

- (1) the stated suspension period expires; and
- (2) the reason(s) for suspension are corrected.

SECTION 18. APPEAL OF A SUSPENSION

.01 If an Agent receives a suspension letter from the National Coordinator, the Agent is entitled to appeal, by

written protest, to the National Director of Appeals. The written protest must be sent to the National Coordinator, who will forward it to the National Director of Appeals. During the appeals process, the suspension remains in effect.

.02 The written protest must be received by the National Coordinator within 30 calendar days of the date of the suspension letter. The written protest must contain detailed reasons, with supporting documentation, for withdrawal of the suspension.

.03 Within 15 calendar days of receipt of a written protest, the National Coordinator will forward the file on the Agent and the material described in section 18.02 of this revenue procedure to the National Director of Appeals.

.04 Failure to appeal within the 30-day period described in section 18.02 of this revenue procedure irrevocably terminates the Agent's right to appeal the suspension.

SECTION 19. PENALTY FOR A FAILURE TO TIMELY FILE A RETURN

Section 6651(a)(1) provides that for each month (or part thereof) a return is not filed when required (determined with regard to any extensions of time for filing), there is a penalty of 5 percent of the unpaid tax not to exceed 25 percent, absent reasonable cause. A taxpayer does not establish reasonable cause simply by engaging a competent Agent to file the taxpayer's return. However, if the Agent has reasonable cause under § 6651(a) for failing to timely file the taxpayer's return, the taxpayer will also have reasonable cause for that failure, and the failure-to-file penalty will be abated.

SECTION 20. FILING FORMS W-4 WITH THE INTERNAL REVENUE SERVICE

.01 An employer is required to send to the Service by the due date of the quarterly return copies of all Forms W-4, Employee's Withholding Allowance Certificates, received during the quarter from employees still employed at the end of the quarter who claim:

- (1) more than 10 withholding exemptions; or
- (2) exempt status and are expecting to earn more than \$200 a week.

Employers should not send other Forms W-4 unless notified by the Service in writing to do so.

.02 If an employer's Form 941 is filed under the Form 941 Mag Tape Program, copies of paper Forms W-4 along with a cover letter providing the employer's name, address, EIN, and the number of Forms W-4 included must be sent to the service center that would have received the employer's paper Form 941. See Publication 15, Circular E, Employer's Tax Guide, for more information on sending Forms W-4 to the Service.

.03 Forms W-4 information may also be filed on magnetic media (5¼ inch diskettes, 3½ inch diskettes, or

magnetic tape). See Publication 1245, Specifications for Filing Form W-4, Employee's Withholding Allowance Certificate, on Magnetic Tape, and 5¼- and 3½-Inch Magnetic Diskettes, for more information concerning magnetic media filing of Forms W-4.

SECTION 21. FILING FORMS W-2 (COPY A) WITH THE SOCIAL SECURITY ADMINISTRATION

Forms W-2, Wage and Tax Statements, must be filed directly with the Social Security Administration on magnetic media or paper. For information on magnetic media reporting of Form W-2, contact the Social Security Administration's Regional Magnetic Media Coordinators.

SECTION 22. REQUESTING FORMS AND OTHER INFORMATION

.01 To obtain forms and publications, use the order blank included in Publication 15, Circular E, Employer's Tax Guide.

.02 Requests for additional copies of this revenue procedure and other revenue procedures or publications concerning magnetic tape filing, applications for magnetic tape filing, copies of Forms 4996 and 8655, or requests for copies of Publication 1264, 1314, or 1833, should be addressed to the Service at any one of the following service centers:

Locations of Service Centers

(1) Northeast Region:

(a) Andover

Service Center Processing Magnetic Tape Filings for those locations

Andover Service Center
Management Support Branch
Mail Stop 105
310 Lowell Street
Andover, MA 05501
Attn: Magnetic Tape Coordinator

(b) Brookhaven

Brookhaven Service Center
Stop 111
P.O. Box 400
Holtsville, NY 11742
Attn: Magnetic Tape Coordinator

(c) Cincinnati

Magnetic tape filers use the Philadelphia Service Center

(d) Philadelphia

Philadelphia Service Center
Mag Media Project Office
Mail Stop 115
11601 Roosevelt Blvd.
Philadelphia, PA 19154

(2) Southeast Region:

(a) Atlanta

Atlanta Service Center
Stop 30
P.O. Box 47-421
Doraville, GA 30362
Attn: Magnetic Tape Coordinator

(b) Memphis

Magnetic tape filers use the Philadelphia Service Center

(3) Midstates Region:

(a) Austin

Magnetic tape filers use the Fresno Service Center

(b) Kansas City

Magnetic tape filers use the Fresno Service Center

(4) Western Region:

(a) Fresno

Fresno Service Center
Stop 44
P.O. Box 12866
Fresno, CA 93779
Attn: Magnetic Tape Coordinator

(b) Ogden

Magnetic tape filers use the Fresno Service Center

SECTION 23. EFFECT ON OTHER DOCUMENTS

This revenue procedure supersedes Rev. Proc. 94-18, 1994-1 C.B. 580, Rev. Proc. 93-46, 1993-2 C.B. 545, and Rev. Proc. 94-59, 1994-2 C.B. 747.

SECTION 24. EFFECTIVE DATE

This revenue procedure is effective for returns due after December 31, 1995 (without regard to extensions).