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SECTION 1. PURPOSE

This revenue procedure informs those who participate in the Form 1040 Electronic Filing (ELF) Program of their obligations to the Internal Revenue Service, taxpayers, and other participants. The following returns can be filed under the Form 1040 ELF Program: (1) 1997 Form 1040 and 1997 Form 1040A, U.S. Individual Income Tax Return; and (2) 1997 Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents. This revenue procedure updates and supersedes Rev. Proc. 96-61, 1996-2 C.B. 401.

SECTION 2. BACKGROUND AND CHANGES

.01 Section 1.6012-5 of the Income Tax Regulations provides that the Commissioner may authorize the use, at the option of a person required to make a return, of a composite return in lieu of any

form specified in 26 CFR Part 1 (Income Tax), 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, an electronically filed Form 1040, Form 1040A, or Form 1040EZ is a composite return consisting of electronically transmitted data and certain paper documents. The paper portion of the return consists of Form 8453, U.S. Individual Income Tax Declaration for Electronic Filing, and other paper documents that cannot be electronically transmitted. Form 8453 must be received by the Service before the composite return is considered filed (see section 5.08 of this revenue procedure). The composite return must contain the same information that a return filed completely on paper contains. See section 7 of this revenue procedure for procedures for completing Form 8453.

.03 The Service will periodically issue Publication 1345, Handbook for Electronic Filers of Individual Income Tax Returns, that lists the forms and schedules associated with the Form 1040 series that can be electronically transmitted.

.04 For the purposes of the Form 1040 ELF Program, a 1997 Form 1040, Form 1040A, or Form 1040EZ cannot be electronically filed after October 15, 1998, notwithstanding the fact that the taxpayer has been granted an extension to file a return beyond that date.

.05 An amended tax return cannot be electronically filed under the Form 1040 ELF Program. A taxpayer must file an amended tax return on paper in accordance with the instructions for Form 1040X, Amended U.S. Individual Income Tax Return.

.06 A tax return that has a foreign address for the taxpayer cannot be electronically filed under the Form 1040 ELF Program. Army/Air Force (APO) and Fleet (FPO) post offices are not considered foreign addresses.

.07 A tax return for a decedent cannot be electronically filed under the Form 1040 ELF Program. The decedent's spouse or personal representative must file a paper tax return for the decedent.

.08 This revenue procedure updates and supersedes Rev. Proc. 96-61, 1996-2

C.B. 401. The updates include changes in the Form 1040 ELF Program, clarification of prior Form 1040 ELF Program statements, and additional guidance derived from other Service documents that relate to the Form 1040 ELF Program. Some of the updates are:

(1) additional fingerprint cards are not required for an application to operate an electronic filing business at a new location (section 4.02(4));

(2) the application period for the Form 1040 ELF Program runs from September 2, 1997, through December 1, 1997 (section 4.05(1));

(3) a proof of sale must be attached to an application from the purchaser of an existing Electronic Filer (section 4.05(2));

(4) all applications for the Form 1040 ELF Program must be sent to the Andover Service Center (sections 4.07 and 5.07);

(5) the definition of Responsible Official is clarified to reflect that a Responsible Official may also be a Principal (section 4.11));

(6) an individual who is an attorney may submit evidence of professional status in lieu of a fingerprint card provided the individual is not currently under suspension or disbarment from practice before the Service or the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia (section 4.13(1));

(7) an individual who is a certified public accountant may submit evidence of professional status in lieu of a fingerprint card provided the individual is not currently under suspension or disbarment from practice before the Service, or whose license to practice is not currently suspended or revoked by any State, Commonwealth, possession, territory, or the District of Columbia (section 4.13(2));

(8) timely notification that an Electronic Filer has discontinued participation in the Form 1040 ELF Program must be sent to the Andover Service Center (section 5.07);

(9) the complete paper copy of the return furnished to the taxpayer need not include the social security number of the paid preparer (section 8.01);

(10) a printout of the electronic portion of the return does not have to be provided to the taxpayer if the taxpayer provided a completed tax return for electronic filing and the information on the electronic por-

tion of the return is identical to the information on the completed tax return (section 8.01); and

(11) the Andover Service Center is the office responsible for accepting or rejecting an application to participate in the Form 1040 ELF Program (sections 14.02 through 14.07).

### SECTION 3. ELECTRONIC FILING PARTICIPANTS—DEFINITIONS

.01 After acceptance into the Form 1040 ELF Program, as described in section 4 of this revenue procedure, a participant is referred to as an “Electronic Filer.”

.02 The Electronic Filer categories are:

(1) **ELECTRONIC RETURN ORIGINATOR.** An “Electronic Return Originator” (ERO) is: (a) an “Electronic Return Preparer” who prepares tax returns, including Forms 8453, for taxpayers who intend to have their returns electronically filed; and/or (b) an “Electronic Return Collector” who accepts completed tax returns, including Forms 8453, from taxpayers who intend to have their returns electronically filed.

(2) **SERVICE BUREAU.** A “Service Bureau” receives tax return information on any media from an ERO, formats the return information, and either forwards the return information to a Transmitter or sends back the return information to the ERO. A Service Bureau may send Forms 8453 to the appropriate service center.

(3) **SOFTWARE DEVELOPER.** A “Software Developer” develops software for the purposes of (a) formatting returns according to the Service’s electronic return specifications; and/or (b) transmitting electronic returns directly to the Service. A Software Developer may also sell its software.

(4) **TRANSMITTER.** A “Transmitter” transmits the electronic portion of a return directly to the Service. An entity that provides a “bump-up” service is a Transmitter. A bump-up service provider increases the transmission rate or line speed of formatted or reformatted information that is being sent to the Service via a public switched telephone network. The Service accepts both asynchronous and bisynchronous communications protocols.

.03 The Electronic Filer categories are not mutually exclusive. For example, an ERO can, at the same time, be considered

a Transmitter, Software Developer, or Service Bureau depending on the function(s) performed.

.04 An Electronic Filer may have a “Drop-Off Collection Point(s).” The activity at a Drop-Off Collection Point is limited solely to receiving a return or return information that a taxpayer wants to have electronically filed and collecting a fee for electronically filing that return. Return preparation activity may not be conducted at a Drop-Off Collection Point. Return preparation activity includes, but is not limited to, comparing amounts listed on Form 8453 with those on the paper return or return information provided by a taxpayer and verifying routing numbers and account numbers used for direct deposit of refunds. Return preparation activity does not include collecting a fee for electronic filing or ensuring that the taxpayer has signed Form 8453. An Electronic Filer need not have an ownership interest in the Drop-Off Collection Point.

### SECTION 4. ACCEPTANCE IN THE FORM 1040 ELECTRONIC FILING PROGRAM

.01 Except as provided in sections 4.02 through 4.04 of this revenue procedure, an Electronic Filer that actively participated in the most recent Form 1040 ELF Program does not have to reapply to participate in the Form 1040 ELF Program. However, an Electronic Filer that intends to participate as a Transmitter or a Software Developer in the Form 1040 ELF Program must first successfully complete the testing referred to in section 4.08 of this revenue procedure. In addition, section 4.15 of this revenue procedure provides for the Service’s issuance of credentials necessary for participation in the Form 1040 ELF Program.

.02 Applicants and Electronic Filers must file a new Form 8633, Application to Participate in the Electronic Filing Program, with completed fingerprint cards for the appropriate individuals, if:

(1) the applicant has never participated in the Form 1040 ELF Program;

(2) the applicant has previously been denied participation in the Form 1040 ELF Program;

(3) the applicant has been suspended from the Form 1040 ELF Program; or

(4) the Electronic Filer is participating

in the Form 1040 ELF Program and wants to operate an electronic filing business at an additional location (except that an individual listed on the Electronic Filer’s application who has previously submitted a fingerprint card does not need to submit an additional fingerprint card).

.03 To participate in the Form 1040 ELF Program, an Electronic Filer in the most recent Form 1040 ELF Program must submit a revised Form 8633, signed by all “Principals” and the “Responsible Official” (as described in sections 4.09 through 4.12 of this revenue procedure), with completed fingerprint cards for the appropriate individuals, if:

(1) the Electronic Filer functioned solely as a Software Developer during the most recent Form 1040 ELF Program and intends to function as an ERO, Service Bureau, or Transmitter during the Form 1040 ELF Program;

(2) there is an additional Principal, such as a partner or a corporate officer, that must be listed on Form 8633, line 8, “Principals of Your Firm or Organization”;

(3) there is a Principal listed on Form 8633, line 8, that should be deleted; or

(4) the Responsible Official on Form 8633, line 9 changes.

.04 Except as provided in section 4.03 of this revenue procedure, to participate in the Form 1040 ELF Program, an Electronic Filer in the most recent Form 1040 ELF Program must submit either a revised Form 8633, or a letter containing the same information contained in a revised Form 8633, if any information on the Electronic Filer’s Form 8633 has changed. A revised Form 8633 or letter submitted under this section should include only the information requested on lines 1a through 1i of Form 8633 and the information being revised. A Principal or a Responsible Official must sign the revised Form 8633 or the letter.

.05 Applicants and Electronic Filers described in section 4.02 of this revenue procedure must submit new applications within the following time periods:

(1) except as provided in section 4.05(2) of this revenue procedure, the application period runs from September 2, 1997, through December 1, 1997; and

(2) if an applicant purchases an existing Electronic Filer’s business on or after November 1, 1997, a new application with

proof of sale attached must be submitted within 30 days after the date of the purchase.

.06 Revised applications described in sections 4.03 and 4.04 of this revenue procedure must be submitted within 30 days of the change(s) reflected on the revised Form 8633 or in the letter.

.07 Applicants and Electronic Filers described in sections 4.02 through 4.04 of this revenue procedure must file Form 8633 (or a letter as provided in section 4.04 of this revenue procedure) with the Andover Service Center.

.08 Applicants and Electronic Filers described in sections 4.01 through 4.04 of this revenue procedure that intend to participate as a Transmitter or a Software Developer in the Form 1040 ELF Program must first successfully complete the necessary testing at the appropriate service center(s).

.09 Each individual listed as a Principal or a Responsible Official must:

(1) be a United States citizen or an alien lawfully admitted for permanent residence as described in 8 U.S.C. § 1101(a)-(20) (1994);

(2) have attained the age of 21 as of the date of application;

(3) submit with Form 8633 one standard fingerprint card with a full set of fingerprints taken by a law enforcement agency, except as provided in section 4.13 of this revenue procedure;

(4) pass a suitability check that includes a credit check, a tax compliance check, and a fingerprint check; and

(5) meet any applicable state and local licensing and/or bonding requirements in connection with the preparation of tax returns and the collection of prepared returns that taxpayers intend to have electronically filed. However, if the state and local licensing and/or bonding requirements apply to a business entity, the individual(s) must demonstrate that the business entity meets the requirements.

.10 A Principal for a firm or organization includes the following:

(1) Sole Proprietorship. The sole proprietor is the Principal for a sole proprietorship.

(2) Partnership. Each partner who has a 5 percent or more interest in the partnership is a Principal of the partnership. If no partner has at least a 5 percent or more interest in the partnership, the Principal is

an individual authorized to act for the partnership in legal and/or tax matters (at least one such individual must be listed on Form 8633).

(3) Corporation. The President, Vice-President, Secretary, and Treasurer of the corporation are each a Principal of the corporation.

(4) Other. The Principal for a for-profit entity that is not a sole proprietorship, partnership, or corporation, is an individual authorized to act for the entity in legal and/or tax matters (at least one such individual must be listed on Form 8633).

.11 A Responsible Official is the individual who oversees the daily operations of an Electronic Filer's office. A Responsible Official may also be a Principal. As set forth in section 4.12 of this revenue procedure, a Responsible Official may be responsible for more than one office.

.12 The Responsible Official categories are:

(1) TIER I RESPONSIBLE OFFICIAL. A "Tier I Responsible Official" is a Responsible Official who does not meet the definition of a "Tier II Responsible Official." A Tier I Responsible Official should be able to visit on a daily basis each office for which he or she is listed as a Responsible Official. A Tier I Responsible Official may be listed on a maximum of ten applications (Forms 8633).

(2) TIER II RESPONSIBLE OFFICIAL. A "Tier II Responsible Official" is an individual who has participated in the Form 1040 ELF Program as a Responsible Official during at least the two most recent filing seasons and who has never been suspended from participation in the Form 1040 ELF Program. A Tier II Responsible Official should be able to visit on a daily basis any office for which he or she is listed as a Responsible Official. A Tier II Responsible Official may be listed on a maximum of twenty applications (Forms 8633).

.13 An individual may choose to submit evidence of the individual's professional status in lieu of a standard fingerprint card if the individual is:

(1) an attorney in good standing of the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia, and is not currently under suspension or disbarment from practice before the Service or the bar of the highest court of any State, Com-

monwealth, possession, territory, or the District of Columbia;

(2) a certified public accountant who is duly qualified to practice as a certified public accountant in any State, Commonwealth, possession, territory, or the District of Columbia, and is not currently under suspension or disbarment from practice before the Service or whose license to practice is not currently suspended or revoked by any State, Commonwealth, possession, territory, or the District of Columbia;

(3) an enrolled agent pursuant to part 10 of 31 C.F.R. Subtitle A;

(4) an officer of a publicly held corporation; or

(5) a banking official who is bonded and has been fingerprinted within the last two years.

.14 If an Electronic Filer has a foreign location, the stateside contact representative will receive all Service correspondence for the foreign location relating to the Form 1040 ELF Program.

.15 The Service will issue credentials to eligible applicants for the Form 1040 ELF Program, as well as Electronic Filers that do not have to reapply pursuant to section 4.01, 4.03, or 4.04 of this revenue procedure (provided they have first satisfactorily completed the testing described in section 4.08 of this revenue procedure if they intend to participate as a Transmitter or Software Developer). No one may participate in the Form 1040 ELF Program without the following credentials:

(1) a letter of acceptance into the Form 1040 ELF Program;

(2) an Electronic Filing Identification Number (EFIN) or a Service Bureau Identification Number (SBIN);

(3) if appropriate, an Electronic Transmitter Identification Number (ETIN); and

(4) if appropriate, a Collection Point Identification Number (CPIN).

.16 The Service will not issue a letter of acceptance to participate in the Form 1040 ELF Program to an ERO if the Service did not receive and accept during the most recent Form 1040 ELF Program any electronically filed returns containing the ERO's EFIN. In addition, an ERO may be dropped from the Form 1040 ELF Program if the Service does not receive and accept prior to April 15, 1998, any electronically filed returns containing the



ERO's EFIN. In either case, the Service will notify the ERO that it has been dropped from the Form 1040 ELF Program and explain what steps the ERO needs to take for future participation in the program.

.17 If an Electronic Filer is a Software Developer that performs no other function in the Form 1040 ELF Program but software development, no Principal or Responsible Official needs to pass a suitability check.

.18 If an Electronic Filer will have a Drop-Off Collection Point(s) (as defined in section 3.04 of this revenue procedure), an Electronic Filer must submit a Form 8633 that lists each Drop-Off Collection Point. By listing a Drop-Off Collection Point on Form 8633, an Electronic Filer becomes a "parent" in relation to a listed Drop-Off Collection Point.

.19 The Service may reject an application to participate in the Form 1040 ELF Program for the following reasons (this list is not all-inclusive). These reasons apply to any firm, organization, Principal, or Responsible Official listed on Form 8633:

(1) conviction of any criminal offense under the revenue laws of the United States, or of any offense involving dishonesty or breach of trust;

(2) failure to file timely and accurate tax returns, including returns indicating that no tax is due;

(3) failure to timely pay any tax liabilities;

(4) assessment of tax penalties;

(5) suspension/disbarment from practice before the Service;

(6) disreputable conduct or other facts that would reflect adversely on the Form 1040 ELF Program;

(7) misrepresentation on an application;

(8) suspension or rejection from the program in a prior year;

(9) unethical practices in return preparation;

(10) stockpiling returns prior to official acceptance into the Form 1040 ELF Program (see section 5.14 of this revenue procedure);

(11) knowingly and directly or indirectly employing or accepting assistance from any firm, organization, or individual that is prohibited from applying to partici-

pate in the Form 1040 ELF Program (see section 13.10 of this revenue procedure) or that is suspended from participating in the Form 1040 ELF Program (see section 13.11 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the Form 1040 ELF Program; or

(12) knowingly and directly or indirectly accepting employment as an associate, correspondent, or as a subagent from, or sharing fees with, any firm, organization, or individual that is prohibited from applying to participate in the Form 1040 ELF Program (see section 13.10 of this revenue procedure) or that is suspended from participating in the Form 1040 ELF Program (see section 13.11 of this revenue procedure). This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the Form 1040 ELF Program.

## SECTION 5. RESPONSIBILITIES OF AN ELECTRONIC FILER

.01 To ensure that complete returns are accurately and efficiently filed, an Electronic Filer must comply with all publications and notices of the Service relating to electronic filing. Currently, these publications and notices include:

(1) Publication 1345, Handbook for Electronic Filers of Individual Income Tax Returns, and Publication 1345A, Handbook for Electronic Filers of Individual Income Tax Returns (Supplement);

(2) Publication 1346, Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns;

(3) Publication 1436, Test Package for Electronic Filing of Individual Income Tax Returns; and

(4) Postings to the Electronic Filing System Bulletin Board (EFS Bulletin Board).

.02 An Electronic Filer must maintain a high degree of integrity, compliance, and accuracy.

.03 An Electronic Filer may accept returns for electronic filing only from taxpayers, from Drop-Off Collection Points as listed on the Electronic Filer's Form 8633 (see section 4.18 of this revenue procedure), or from another Electronic Filer.

.04 If the taxpayer's address on a Form W-2, Wage and Tax Statement, Form W-2G, Statement for Recipients of Certain Gambling Winnings, Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., Form 1040, Schedule C, Profit or Loss From Business (Sole Proprietorship), or Form 1040, Schedule C-EZ, Profit or Loss From Business - Short Version, or any other tax form is different than the taxpayer's address in the entity section of the electronic portion of the taxpayer's Form 1040, the ERO or the Service Bureau must input for transmission to the Service those addresses that differ from the taxpayer's address on the electronic portion of the taxpayer's Form 1040.

.05 If an Electronic Filer charges a fee for the electronic transmission of a tax return, the fee may not be based on a percentage of the refund amount or any other amount from the tax return. An Electronic Filer may not charge a separate fee for Direct Deposit. See section 9 of this revenue procedure.

.06 An Electronic Filer must submit a revised Form 8633 (or a letter as provided in section 4.04 of this revenue procedure) to the Andover Service Center within 30 days of when any of the conditions or changes described in section 4.03 or 4.04 of this revenue procedure occur. See section 4.06 of this revenue procedure.

.07 An Electronic Filer must notify the Andover Service Center within 30 days of discontinuing its participation in the Form 1040 ELF Program. This does not preclude reapplication in the future.

.08 An Electronic Filer must ensure that it promptly processes returns submitted to it for electronic filing. See sections 5.14, 5.15, 5.16, and 7.01 of this revenue procedure. However, an Electronic Filer that receives a return for electronic filing on or before the due date of the return must ensure that the electronic return is filed on or before that due date (including extensions). An electronic return is not considered filed until the electronic portion of the tax return has been acknowledged by the Service as accepted for processing and a completed and signed Form 8453 has been received by the Service. However, if the electronic portion of a return is successfully transmitted on or

shortly before the due date and the Electronic Filer complies with section 7.01 of this revenue procedure, the return will be deemed timely filed. If the electronic portion of a return is transmitted on or shortly before the due date and is ultimately rejected, but the Electronic Filer and the taxpayer comply with section 5.13 of this revenue procedure, the return will be deemed timely filed. For a balance due return, see section 11 of this revenue procedure for instructions on how to make a timely payment of tax.

.09 An Electronic Filer that functions as an ERO must:

(1) comply with the procedures for completing and securing Forms 8453 described in section 7 of this revenue procedure;

(2) comply with the procedures described in section 11 of this revenue procedure for handling a balance due return;

(3) while returns are being filed by the ERO, retain and make available to the Service upon request the following material at the business address from which a return was accepted for electronic filing:

(a) a copy of the signed Form 8453 and paper copies of Forms W-2, W-2G, and 1099-R;

(b) a complete copy of the electronic portion of the return (may be retained on magnetic media) that can be readily and accurately converted into an electronic transmission that the Service can process; and

(c) the acknowledgement file received from the Service or from a third party Transmitter; and

(4) retain until the end of the calendar year in which a return was filed, and make available to the Service upon request the materials described in section 5.09(3) of this revenue procedure at either the business address from which a return was electronically filed or from the contact representative named on Form 8633.

.10 An ERO who is the paid preparer of an electronic tax return must also retain for the prescribed amount of time the materials described in § 1.6107-1(b) that are required to be kept by an income tax return preparer.

.11 An ERO must identify the paid preparer (if any) in the appropriate field of the electronic return and ensure that the

paid preparer signed Form 8453. If Form 8453 is not signed by the paid preparer, the ERO must attach to Form 8453 a copy of pages 1 and 2 of the Form 1040EZ, Form 1040A, or Form 1040 signed by the paid preparer. These copies must be marked "COPY-DO NOT PROCESS" to prevent duplicate filings.

.12 An ERO must ensure against the unauthorized use of its EFIN and, if applicable, the CPIN(s) issued to its Drop-Off Collection Point(s). An ERO must not transfer its EFIN or the CPIN(s) of its Drop-Off Collection Point(s) by sale, merger, loan, gift, or otherwise to another entity.

.13 If the Service rejects the electronic portion of a taxpayer's return (the Service states whether it accepts or rejects the electronic portion of a taxpayer's return in an "acknowledgment file"), and the reason for the rejection cannot be rectified by the actions described in section 6.02(3) of this revenue procedure, the ERO, within 24 hours of receiving the rejection, must take reasonable steps to inform the taxpayer that the taxpayer's return has not been filed. When the ERO advises the taxpayer that the taxpayer's return has not been filed, the ERO must provide the taxpayer with the reject code(s), an explanation of the reject code(s), and the sequence number of each reject code(s). If the taxpayer chooses not to have the electronic portion of the return corrected and transmitted to the Service, or if the electronic portion of the return cannot be accepted for processing by the Service, the taxpayer must file a paper return by the later of:

(1) the due date of the return; or

(2) ten calendar days after the date the Service gives notification that the electronic portion of the return is rejected or that the electronic portion of the return cannot be accepted for processing.

The paper return should include an explanation of why the return is being filed after the due date.

.14 An ERO is responsible for ensuring that stockpiling does not occur at its office(s) or Drop-Off Collection Point(s). Stockpiling means collecting returns from taxpayers or from another Electronic Filer prior to official acceptance into the Form 1040 ELF Program, or, after official acceptance into the Form 1040 ELF Program,

waiting more than three calendar days to transmit a return to the Service after receiving the information necessary for an electronic transmission of a tax return.

.15 An Electronic Filer who participates as a Service Bureau must:

(1) deliver all electronic returns to a Transmitter or to the ERO who gave the electronic returns to the Service Bureau within three calendar days of receipt;

(2) retrieve the acknowledgement file from the Transmitter within one calendar day of receipt by the Transmitter;

(3) send the acknowledgement file to the ERO (whether related or not) within one work day of retrieving the acknowledgement file;

(4) if the Service Bureau processes Forms 8453, send back to the ERO any return and Form 8453 that needs correction, unless the correction is described in section 6.02(3) of this revenue procedure;

(5) accept tax return information only from Electronic Filers;

(6) include its SBIN and the ERO's EFIN with all return information the Service Bureau forwards to a Transmitter or sends back to an ERO;

(7) retain each acknowledgement file received from a Transmitter until the end of the calendar year in which the electronic return was filed;

(8) if requested, serve as a contact point between its client EROs and the Service;

(9) if requested, provide the Service with a list of each client ERO; and

(10) ensure against the unauthorized use of its SBIN. A Service Bureau must not transfer its SBIN by sale, merger, loan, gift, or otherwise to another entity.

.16 An Electronic Filer who participates as a Transmitter must:

(1) transmit all electronic returns within three calendar days of receipt;

(2) retrieve the acknowledgement file within two work days of transmission;

(3) match the acknowledgement file to the original transmission file and send the acknowledgement file to the ERO or the Service Bureau (whether or not the ERO or the Service Bureau are related to the Transmitter) within two work days of retrieving the acknowledgement file;

(4) retain an acknowledgement file received from the Service until the end of the calendar year in which the electronic return was filed;

(5) immediately contact the appropriate service center's Electronic Filing Unit for further instructions if an acknowledgment of acceptance for processing has not been received by the Transmitter within two work days of transmission or if a Transmitter receives an acknowledgement for a return that was not transmitted on the designated transmission;

(6) promptly correct any transmission error that causes an electronic transmission to be rejected;

(7) contact the appropriate service center's Electronic Filing Unit for assistance if a return has been rejected after three transmission attempts;

(8) ensure the security of all transmitted data;

(9) ensure against the unauthorized use of its EFIN or ETIN. A Transmitter must not transfer its EFIN or ETIN by sale, merger, loan, gift, or otherwise to another entity; and

(10) not use software that has a Service assigned production password built into the software.

.17 A Transmitter who provides transmission services to other unrelated Electronic Filers must accept electronic returns for transmission to the Service only from accepted Electronic Filers. A Transmitter must include the ERO's EFIN and if applicable, the CPIN on each return that the Transmitter accepts from an ERO. In addition, a Transmitter must also include a Service Bureau's SBIN if a Service Bureau formats the return information.

.18 An Electronic Filer who participates as a Software Developer must:

(1) promptly correct any software error which causes the electronic portion of a return to be rejected;

(2) promptly distribute any software correction;

(3) ensure that any software package that will be used to transmit electronic returns from multiple Electronic Filers has the capability of combining returns from these Electronic Filers into one Service transmission file taking into account the sorting requirements of the Declaration Control Number (DCN);

(4) ensure that no other entity uses the Software Developer's EFIN or ETIN. A Software Developer must not transfer by sale, merger, loan, gift, or otherwise its EFIN or ETIN to another entity; and

(5) not incorporate into its software a Service assigned production password.

.19 An Electronic Filer with a Drop-Off Collection Point is the ERO for that Drop-Off Collection Point. The ERO must clearly display its name at each Drop-Off Collection Point. The Service will hold the ERO responsible for any violation of the advertising standards described in section 12 or any other violation of this revenue procedure that occurs at a Drop-Off Collection Point listed on the ERO's Form 8633. The ERO must also serve as the contact point between the Service and the Drop-Off Collection Point for all correspondence including problem resolution and report evaluation.

.20 In addition to the specific responsibilities described in this section, an Electronic Filer must meet all the requirements in this revenue procedure to retain the privilege of participating in the Form 1040 ELF Program.

## SECTION 6. PENALTIES

### *.01 Penalties for Disclosure or Use of Information.*

(1) An Electronic Filer, except a Software Developer, is a tax return preparer (Preparer) under the definition of § 301.7216-1(b) of the Regulations on Procedure and Administration. A Preparer is subject to a criminal penalty for unauthorized disclosure or use of tax return information. See § 7216 of the Internal Revenue Code and § 301.7216-1(a). In addition, § 6713 establishes civil penalties for unauthorized disclosure or use of tax return information.

(2) Under § 301.7216-2(h), disclosure of tax return information among accepted Electronic Filers for the purpose of preparing a return is permissible. For example, an ERO may pass on tax return information to a Service Bureau and/or a Transmitter for the purpose of having an electronic return formatted and transmitted to the Service. However, if the tax return information is disclosed or used in any other way, a Service Bureau and/or a Transmitter may be subject to the penalties described in section 6.01(1) of this revenue procedure.

### *.02 Other Preparer Penalties.*

(1) Preparer penalties may be asserted against an individual or firm meeting the definition of an income tax return preparer

under § 7701(a)(36) and § 301.7701-15. Preparer penalties that may be asserted under appropriate circumstances include, but are not limited to, those set forth in §§ 6694, 6695, and 6713.

(2) Under § 301.7701-15(d), Electronic Return Collectors, Service Bureaus, Transmitters, and Software Developers are not income tax return preparers for the purpose of assessing most preparer penalties as long as their services are limited to "typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund."

(3) If an Electronic Return Collector, Service Bureau, Transmitter, or the product of a Software Developer alters the return information in a nonsubstantive way, this alteration will be considered to come under the "mechanical assistance" exception described in § 301.7701-15(d)(1). A nonsubstantive change is a correction or change limited to a transposition error, misplaced entry, spelling error, or arithmetic correction that falls within the following tolerances:

(a) the amount of "Total tax", "Federal income tax withheld", "Refund", or "Amount you owe" on Form 8453 differs from the corresponding amount on the electronic portion of the tax return by no more than \$7;

(b) the amount of "Total income" on Form 8453 differs from the corresponding amount on the electronic portion of the tax return by no more than \$25; or

(c) dropping cents and rounding to whole dollars.

(4) If an Electronic Return Collector, Service Bureau, or Transmitter alters the return information in a substantive way, rather than having the taxpayer alter the return, the Electronic Return Collector, Service Bureau, or Transmitter will be considered to be an income tax return preparer for purposes of § 7701(a)(36).

(5) If an Electronic Return Collector, Service Bureau, or Transmitter, or the product of a Software Developer, goes beyond mechanical assistance, any of these parties may be held liable for income tax return preparer penalties. See Rev. Rul. 85-189, 1985-2 C.B. 341 (which describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties).



.03 *Other Penalties.* In addition to the above specified provisions, the Service reserves the right to assert all appropriate preparer, nonpreparer, and disclosure penalties against an Electronic Filer as warranted under the circumstances.

## SECTION 7. FORM 8453, U.S. INDIVIDUAL INCOME TAX DECLARATION FOR ELECTRONIC FILING

.01 *Procedures for Completing Form 8453.*

(1) Form 8453 must be completed in accordance with the instructions for that form.

(2) The taxpayer(s)'s name, address, social security number(s), tax return information, and direct deposit of refund information in the electronic transmission must be identical to the information on the Form 8453 that the taxpayer(s) signed and provided for submission to the Service.

(3) An Electronic Filer, a financial institution, or any other entity associated with the electronic filing of a taxpayer's return must not put its address in the section reserved for the taxpayer's address on Form 8453 or anywhere in the electronic portion of a return.

(4) Before the electronic portion of the return is transmitted, the taxpayer must verify the information on the electronic portion of the return and on Form 8453, and must sign Form 8453. Both spouses' signatures are required on the Form 8453 prior to the electronic transmission of a joint tax return. The taxpayer may verify the information on the electronic portion of the return by viewing this information on a computer display terminal. A taxpayer need not verify the electronic portion of the return prior to its transmission if the taxpayer provided a completed paper return for filing and the information on the electronic portion is identical to the information provided by the taxpayer.

(5) An Electronic Filer must submit the taxpayer's Form 8453 to the appropriate service center within one work day after the Electronic Filer receives acknowledgment that the electronic portion of the taxpayer's return has been accepted for processing.

(6) If an Electronic Filer functions as an ERO, the Electronic Filer must sign the ERO's Declaration on Form 8453.

(7) If the ERO is also the paid preparer, the ERO must check the "Paid Preparer" box and sign the ERO Declaration on Form 8453.

.02 *Corrections to Form 8453.*

(1) A new Form 8453 is not required for a nonsubstantive change. A nonsubstantive change is limited to a correction that does not exceed the tolerances, described in section 7.02(2) of this revenue procedure for arithmetic errors, a transposition error, a misplaced entry, or a spelling error. The incorrect nonsubstantive information must be neatly lined through on the Form 8453 and the correct data entered next to the lined-through entry. Also, the individual making the correction must initial the correction.

(2) The tolerances for section 7.02(1) of this revenue procedure are:

(a) the amount of "Total income" does not differ from the amount on the electronic tax return by more than \$25; or

(b) the amount of "Total tax", "Federal income tax withheld", "Refund", or "Amount you owe" does not differ from the amount on the electronic portion of the tax return by more than \$7.

(3) If the ERO makes a substantive change to the electronic portion of the return after Form 8453 has been signed by the taxpayer, but before it is transmitted, the ERO must have all the necessary parties described above sign a new Form 8453 that reflects the corrections before the return is transmitted.

(4) Dropping cents or rounding to whole dollars does not constitute a substantive change or alteration to the return unless the amount differs by more than the above tolerances. All rounding should be accomplished in accordance with the instructions in the Form 1040 tax package.

.03 *Missing Form 8453.* If the Service determines that a Form 8453 is missing, the ERO must provide the Service with a replacement. The ERO must also provide a copy of the Form(s) W-2, W-2G, 1099R, and all other attachments to Form 8453.

.04 *Substitute Form 8453.* If a substitute Form 8453 is used, it must be approved by the Service prior to use. See Rev. Proc. 96-48, 1996-2 C.B. 339.

## SECTION 8. INFORMATION AN ELECTRONIC FILER MUST PROVIDE TO THE TAXPAYER

.01 The ERO must furnish the taxpayer with a complete paper copy of the taxpayer's return. However, the copy need not contain the social security number of the paid preparer. See Rev. Rul. 78-317, 1978-2 C.B. 335. A complete copy of a taxpayer's return includes:

(1) Form 8453 and other paper documents that cannot be electronically transmitted; and

(2) a printout of the electronic portion of the return. See section 2.02 of this revenue procedure. The electronic portion of the return can be contained on a replica of an official form or on an unofficial form. However, on an unofficial form, data entries must be referenced to the line numbers on an official form. Also, a printout of the electronic portion of the return does not have to be provided to the taxpayer if the taxpayer provided a completed paper return for electronic filing and the information on the electronic portion of the return is identical to the information provided by the taxpayer.

.02 The ERO must advise the taxpayer to retain a complete copy of the return and any supporting material.

.03 The ERO must advise the taxpayer that an amended return, if needed, must be filed as a paper return and mailed to the service center that would handle the taxpayer's paper return.

.04 The ERO must, upon request, provide the taxpayer with the Declaration Control Number and the date the Service gave notification that the electronic portion of the taxpayer's return was accepted for processing.

.05 The ERO must advise taxpayers that they can call the local IRS TeleTax number to inquire about the status of their tax refund. The ERO should also advise taxpayers to wait at least three weeks from the date the Service accepted the electronic portion of the taxpayer's return for processing before calling the TeleTax number.

.06 If a taxpayer chooses to use an address other than his or her home address on the return, the Electronic Filer must inform the taxpayer that the address on the electronic portion of the return, once



processed by the Service, will be used to update the taxpayer's address of record. The Internal Revenue Service uses the taxpayer's address of record for various notices that are required to be sent to a taxpayer's "last known address" under the Internal Revenue Code, and for refunds of overpayments of tax (unless otherwise specifically directed by the taxpayer, such as by Direct Deposit).

#### SECTION 9. DIRECT DEPOSIT OF REFUNDS

.01 The Service will ordinarily process a request for Direct Deposit but reserves the right to issue a paper refund check.

.02 The Service does not guarantee a specific date by which a refund will be directly deposited into the taxpayer's financial institution account.

.03 Neither the Service nor Financial Management Service (FMS) is responsible for the misapplication of a Direct Deposit that is caused by error, negligence, or malfeasance on the part of the taxpayer, Electronic Filer, financial institution, or any of their agents.

.04 An ERO must:

(1) advise taxpayers of the option to receive their refund by paper check or direct deposit;

(2) not charge a separate fee for a Direct Deposit;

(3) accept any Direct Deposit election to any eligible financial institution designated by the taxpayer;

(4) ensure that the taxpayer is eligible to choose Direct Deposit;

(5) verify that the taxpayer has entered the Direct Deposit information requested on Part II of Form 8453 correctly and that the information entered is the information transmitted with the electronic portion of the return;

(6) caution the taxpayer that once an electronic return has been accepted for processing by the Service:

(a) the Direct Deposit election cannot be rescinded;

(b) the Routing Transit Number (RTN) of the financial institution cannot be changed; and

(c) the taxpayer's account number cannot be changed; and

(7) advise the taxpayer that refund information is available by calling the local

IRS TeleTax number. See section 8.05 of this revenue procedure.

#### SECTION 10. REFUND ANTICIPATION LOANS

.01 A Refund Anticipation Loan (RAL) is money borrowed by a taxpayer that is based on a taxpayer's anticipated income tax refund. The Service has no involvement in RALs. A RAL is a contract between the taxpayer and the lender.

.02 Any entity that is involved in the Form 1040 ELF Program, including a financial institution that accepts direct deposits of income tax refunds, has an obligation to every taxpayer who applies for a RAL to clearly explain to the taxpayer that a RAL is in fact a loan, and not a substitute for or a quicker way of receiving an income tax refund. An Electronic Filer must advise the taxpayer that if a Direct Deposit is not timely, the taxpayer may be liable to the lender for additional interest on the RAL.

.03 An Electronic Filer may assist a taxpayer in applying for a RAL.

.04 An Electronic Filer may charge a flat fee to assist a taxpayer in applying for a RAL. The fee must be identical for all of the Electronic Filer's customers and must not be related to the amount of the refund or a RAL. The Electronic Filer must not accept a fee from a financial institution for any service connected with a RAL that is contingent upon the amount of the refund or a RAL.

.05 The Service has no responsibility for the payment of any fees associated with the preparation of a return, the electronic transmission of a return, or a RAL.

.06 An Electronic Filer may disclose tax information to the lending financial institution in connection with an application for a RAL only with the taxpayer's written consent as specified in § 301.7216-3(b).

.07 An Electronic Filer that is also the return preparer, and the financial institution or other lender that makes an RAL, may not be related taxpayers within the meaning of § 267 or § 707.

.08 Section 6695(f) imposes a \$500 penalty on a return preparer who endorses or negotiates a refund check issued to any taxpayer other than the return preparer. However, a bank, as defined in § 581, may accept the full amount of a refund check as a deposit in the taxpayer's ac-

count for the benefit of the taxpayer. Section 1.6695-1(f) clarifies § 6695(f) by explaining that the prohibition on a return preparer negotiating a refund check is limited to a refund check for a return that the return preparer prepared. A preparer that is also a financial institution, but has not made a loan to the taxpayer on the basis of the taxpayer's anticipated refund, may (1) cash a refund check and remit all of the cash to the taxpayer or accept a refund check for deposit in full to a taxpayer's account, provided the bank does not initially endorse or negotiate the check; or (2) endorse a refund check for deposit in full to a taxpayer's account pursuant to a written authorization of the taxpayer. A preparer bank may also subsequently endorse or negotiate a refund check as part of the check-clearing process through the financial system after initial endorsement. Any income tax return preparer that violates this provision may be suspended from the Form 1040 ELF Program.

#### SECTION 11. BALANCE DUE RETURNS

.01 All service centers that accept electronically filed returns will accept electronically filed balance due returns.

.02 The Electronic Filer must furnish Form 1040-V, Payment Voucher, to a taxpayer who electronically files a balance due return.

.03 To expedite the crediting of a tax payment, a taxpayer who electronically files a balance due return should mail his or her tax payment with either Form 1040-V or the scannable payment voucher that is included in some tax packages. Each of these options has specific mailing instructions.

.04 A taxpayer who electronically files a balance due return must make a full and timely payment of any tax that is due. Failure to make full payment of any tax that is due on or before April 15, 1998, will result in the imposition of interest and may result in the imposition of penalties.

#### SECTION 12. ADVERTISING STANDARDS FOR ELECTRONIC FILERS AND FINANCIAL INSTITUTIONS

.01 An Electronic Filer shall comply with the advertising and solicitation provi-

sions 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. Any claims concerning faster refunds by virtue of electronic filing must be consistent with the language in official Service publications.

.02 An Electronic Filer must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting.

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

.04 An Electronic Filer must not use improper or misleading advertising in relation to the Form 1040 ELF Program (including the time frames for refunds and RALs).

.05 An Electronic Filer using electronic filing promotional materials or logos provided by the Service must comply with all Service instructions pertaining to the promotional materials or logos.

.06 Use of Direct Deposit name and logo.

(1) The name "Direct Deposit" will be used with initial capital letters or all capital letters.

(2) The logo/graphic for Direct Deposit will be used whenever feasible in advertising copy.

(3) The color or size of the Direct Deposit logo/graphic may be changed when used in advertising pieces.

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

.08 Advertising for a cooperative electronic return filing project (public/private sector) must clearly state the names of all cooperating parties.

.09 In advertising the availability of a RAL, an Electronic Filer and a financial institution must clearly (and, if applicable, in easily readable print) refer to or describe the funds being advanced as a loan, not a refund; that is, it must be made clear in the advertising that the taxpayer is borrowing against the anticipated refund and not obtaining the refund itself from the financial institution.

.10 If an Electronic Filer uses radio or television broadcasting to advertise, the broadcast must be pre-recorded. The Electronic Filer 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.

.11 If an Electronic Filer uses direct mail or fax communications to advertise, the Electronic Filer must retain a copy of the actual mailing or fax, along with a list or other description of the firms, organizations, or individuals 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.

.12 Acceptance to participate in the Form 1040 ELF Program does not imply endorsement by the Service, FMS, or the Treasury Department of the software or quality of services provided.

### SECTION 13. MONITORING AND SUSPENSION OF AN ELECTRONIC FILER

.01 The Service will monitor an Electronic Filer for conformity with this revenue procedure. Before suspending an Electronic Filer, the Service may issue a warning letter that describes specific corrective action for deviations from this revenue procedure. However, the Service can immediately suspend, without notice, an Electronic Filer from the Form 1040 ELF Program. In most circumstances, a suspension from participation in the Form 1040 ELF Program is effective as of the date of the letter informing the Electronic Filer of the suspension.

.02 If a Principal or Responsible Official is suspended from the Form 1040 ELF Program, every entity that listed the suspended Principal or Responsible Official on its Form 8633 may also be suspended.

.03 The Service will monitor the timely receipt of Forms 8453, as well as their overall legibility.

.04 The Service will monitor the quality of an Electronic Filer's transmissions throughout the filing season. The Service will also monitor the electronic portion of returns and tabulate rejections, errors, and other defects. If quality deteriorates, the Electronic Filer will receive a warning from the Service.

.05 The Service will monitor Drop-Off Collection Points and advise a parent of any Form 1040 ELF Program violations the Service has encountered with a parent's Drop-Off Collection Point. If a parent fails to correct a Drop-Off Collection

Point problem, the parent will be required to eliminate that Drop-Off Collection Point. Failure to take corrective action or eliminate a Drop-Off Collection Point may cause the Service to suspend the parent from participating in the Form 1040 ELF Program.

.06 The Service will monitor complaints about an Electronic Filer and issue a warning or suspension letter as appropriate.

.07 The Service reserves the right to suspend an Electronic Filer from participation in the Form 1040 ELF Program for violating any provision of this revenue procedure. Generally, the Service will advise a suspended Electronic Filer concerning the requirements for reacceptance into the Form 1040 ELF Program. The following reasons may lead to a warning letter and/or suspension of an Electronic Filer from the Form 1040 ELF Program (this list is not all-inclusive):

(1) the reasons listed in section 4.19 of this revenue procedure;

(2) deterioration in the format of individual transmissions;

(3) unacceptable cumulative error or rejection rate;

(4) untimely received, illegible, incomplete, missing, or unapproved substitute Forms 8453;

(5) stockpiling returns at any time while participating in the Form 1040 ELF Program;

(6) failure on the part of a Transmitter to retrieve acknowledgement files within two work days of transmission by the Service;

(7) failure on the part of a Transmitter to provide an ERO or Service Bureau with acknowledgement files within two work days after receipt from the Service;

(8) significant complaints about an Electronic Filer's performance in the Form 1040 ELF Program;

(9) failure on the part of an Electronic Filer to ensure against the unauthorized use of its EFIN and/or ETIN;

(10) having more than one EFIN for the same business entity at the same location (the business entity is generally the entity that reports on its return the income derived from electronic filing), unless the Service has issued more than one EFIN to a business entity at the same location. For example, the Service may issue more than one EFIN to accommodate high volumes of returns;

(11) failure on the part of a Transmitter to include a Service Bureau's SBIN in the transmission of a return submitted by a Service Bureau;

(12) failure on the part of an ERO to include a Drop-Off Collection Point's CPIN as part of a return collected from a Drop-Off Collection Point;

(13) failure on the part of an Electronic Filer to cooperate with the Service's efforts to monitor Electronic Filers and investigate electronic filing abuse;

(14) failure on the part of an Electronic Filer to properly use the standard/non-standard W-2 indicator;

(15) failure on the part of an Electronic Filer to properly use the refund anticipation loan (RAL) indicator;

(16) failure on the part of a Service Bureau or a Transmitter to include the ERO's EFIN as part of a return that the ERO submits to the Service Bureau or the Transmitter;

(17) violation of the advertising standards described in section 12 of this revenue procedure;

(18) failure to maintain and make available records as described in section 5.09(4) of this revenue procedure;

(19) accepting a tax return for electronic filing either directly or indirectly from a firm, organization, or individual (other than the taxpayer who is submitting his or her return) that is not in the Form 1040 ELF Program;

(20) submitting the electronic portion of a return with information that is not identical to the information on Form 8453; or

(21) failure to timely submit a revised Form 8633 (or a letter containing the same information contained in a revised Form 8633) notifying the Service of changes described in section 4.03 or 4.04 of this revenue procedure.

.08 The Service may list in the Internal Revenue Bulletin, district office listings, district office newsletters, and the EFS Bulletin Board the name and owner(s) of any entity suspended from the Form 1040 ELF Program and the effective date of the suspension.

.09 A district director may warn Electronic Filers who are using the services of a rejected or a suspended Electronic Filer that sections 4.19(11) and (12) of this revenue procedure prohibit a busi-

ness relationship with a rejected or a suspended Electronic Filer. However, in appropriate circumstances, the Service may immediately suspend the Electronic Filer.

.10 If an Electronic Filer is suspended from participating in the Form 1040 ELF Program, the period of suspension includes the remainder of the calendar year in which the suspension occurs plus the next two calendar years. A suspended participant may submit a new application for the application period immediately preceding the end of the suspension.

#### SECTION 14. ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE FORM 1040 ELECTRONIC FILING PROGRAM

.01 An applicant that has been denied participation in the Form 1040 ELF Program has the right to an administrative review. During the administrative review process, the denial of participation remains in effect.

.02 In response to the submission of a Form 8633, the Andover Service Center will either (1) accept an applicant into the Form 1040 ELF Program, or (2) issue a proposed letter of denial that explains to the applicant why the service center proposes to reject the application to participate in the Form 1040 ELF Program.

.03 An applicant that receives a proposed letter of denial may mail or deliver, within 30 calendar days of the date of the proposed letter of denial, a written response to the Andover Service Center. The applicant's response must address the service center's reason(s) for proposing the denial to participate.

.04 Upon receipt of an applicant's written response, the Andover Service Center will reconsider its proposed letter of denial. The service center may either (1) withdraw its proposed letter of denial and admit the applicant into the Form 1040 ELF Program, or (2) finalize the proposed denial letter.

.05 If an applicant receives a final denial letter from the Andover Service Center, the applicant is entitled to an appeal, in writing, to the Director of Practice.

.06 The appeal must be mailed or delivered to the Andover Service Center within 30 calendar days of the date of the

final denial letter. An applicant's written appeal must contain a detailed explanation, with supporting documentation, of why the denial should be reversed.

.07 The Andover Service Center will, upon receipt of a written appeal to the Director of Practice, forward to the Director of Practice its file on the applicant and the material described in section 14.06 of this revenue procedure. The service center will forward these materials to the Director of Practice within 15 calendar days of receipt of the applicant's written appeal.

.08 Failure to respond within either of the 30-day periods described in sections 14.03 and 14.06 of this revenue procedure irrevocably terminates an applicant's right to an administrative review or appeal.

.09 If an application for participation in the Form 1040 ELF Program is denied, the applicant is ineligible to submit a new application for two years from the application date of the denied application.

#### SECTION 15. ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE FORM 1040 ELECTRONIC FILING PROGRAM

.01 An Electronic Filer that has been suspended from participation in the Form 1040 ELF Program has the right to an administrative review. During the administrative review process, the suspension remains in effect.

.02 If an Electronic Filer receives a suspension letter, the Electronic Filer may mail or deliver, within 30 calendar days of the date of the suspension letter, a detailed written explanation, with supporting documentation, of why the suspension letter should be withdrawn. This written response should be sent to the district office or service center that issued the suspension letter.

.03 Upon receipt of the Electronic Filer's written response, the district office or service center will reconsider its suspension of the Electronic Filer. The district office or service center may either (1) withdraw its suspension letter, or (2) affirm the suspension.

.04 If an Electronic Filer receives a letter affirming the suspension, the Electronic Filer is entitled to an appeal, in writing, to the Director of Practice.

.05 The appeal must be mailed or delivered to the district office or service



center that issued the suspension letter within 30 calendar days of the date of the letter affirming the suspension. The Electronic Filer's written appeal must contain detailed reasons, with supporting documentation, for reversal of the suspension.

.06 The district office or service center whose decision to suspend is being appealed will, upon receipt of a written appeal to the Director of Practice, forward its file on the Electronic Filer to the Director of Practice. The district office or service center will also forward to the Director of Practice the material described in section 15.05 of this revenue procedure. The district office or the service center will forward these materials within 15 calendar days of the receipt of the Electronic Filer's written request for appeal.

.07 Failure to appeal within either of the 30-day periods described in sections 15.02 and 15.05 of this revenue procedure irrevocably terminates an Electronic Filer's right to an appeal.

#### SECTION 16. VITA AND TCE SPONSORED ELECTRONIC FILING

.01 This revenue procedure applies to VITA (Volunteer Income Tax Assistance) and TCE (Tax Counseling for the Elderly) sponsors subject to the exceptions and restrictions described in this section.

.02 For purposes of this section, the District Director may be represented by an individual designated by the District Director such as a District Office Electronic Filing Coordinator (DOEFC) or a Taxpayer Education Coordinator.

.03 To be accepted in, or to continue participation in, the Form 1040 ELF Program, a VITA or TCE sponsor must:

(1) have obtained the District Director's permission (and, in the case of a TCE sponsor, the permission of the Service office that is funding the TCE program) to provide electronic filing; and

(2) have a manual or electronic quality review system for each return to be electronically filed.

.04 The District Director will advise the VITA and TCE sponsor how to submit or transmit returns. Some of the options available to the District Director are:

(1) having the VITA or TCE sponsor submit returns on paper, magnetic disk, or in an electronic transmission to the

DOEFC or other locally designated office;

(2) having the VITA or TCE sponsor directly transmit returns to the appropriate service center; or

(3) having the VITA or TCE sponsor use a third party Transmitter.

.05 A VITA or TCE sponsor is not required to sign Form 8453 as ERO. However, if the VITA or TCE sponsor chooses not to sign Form 8453, the VITA or TCE sponsor must otherwise furnish on Form 8453 its VITA or TCE acronym and, if operating from multiple sites, a site designation number.

.06 A VITA or TCE sponsor can only accept a return for electronic filing that is (1) prepared at the VITA or TCE site by a VITA or TCE volunteer, (2) prepared by a taxpayer that meets the criteria for VITA or TCE assistance, or (3) prepared by a paid preparer that meets the criteria for VITA or TCE assistance.

.07 Only returns and accompanying forms and schedules included in a district, VITA, or TCE training course may be accepted for electronic filing by a VITA or TCE sponsor.

.08 A VITA or TCE sponsor and a District Director may enter into an agreement that provides for the retention of copies of tax returns and Forms 8453 by a District Director. This information must be retained by either the VITA or TCE sponsor or a District Director. This information must not be given to a third party, including a third party Transmitter.

.09 A District Director is responsible for ensuring that Form 8453 is sent to the appropriate district office or service center. However, a District Director may delegate to the VITA or TCE sponsor the responsibility for mailing Form 8453 to the appropriate district office or service center.

.10 A VITA or TCE sponsor may collect a fee only if it is directly related to defraying the actual cost of electronically transmitting a tax return. A VITA or TCE sponsor may also collect this fee on behalf of a third party Transmitter who electronically transmitted a VITA or TCE return.

.11 Before a VITA or TCE sponsor may collect a fee for electronically filing a tax return, the VITA or TCE sponsor must ensure that the taxpayer understands that:

(1) the fee is not for the preparation of the return; and

(2) the VITA or TCE service is offered without regard to either the electronic filing of a return or the collection of a fee.

#### SECTION 17. EMPLOYER SPONSORED ELECTRONIC FILING

.01 This revenue procedure applies to an employer who chooses to offer electronic filing as an employee benefit to (1) business owners and spouses, (2) employees and spouses, and/or (3) dependents of business owners and employees, subject to the exceptions and restrictions described in this section.

.02 For purposes of this section, the District Director may be represented by an individual designated by the District Director.

.03 An employer may choose to electronically transmit returns or may arrange to have tax returns electronically transmitted through a third party. If an employer chooses to transmit returns from more than one location, the employer must submit a properly completed Form 8633 for each location.

.04 An employer may offer electronic filing as an employee benefit whether the employer chooses to transmit tax returns or contracts with a third party to transmit the tax returns.

.05 If an employer contracts with a third party to transmit tax returns, the employer may collect from participating employees a fee that is directly related to defraying the actual cost of electronically transmitting a tax return.

.06 An employer is not required to sign Form 8453 as ERO. However, if the employer chooses not to sign Form 8453, the employer must otherwise furnish on Form 8453 its name, address, and the designation "Employee Benefit," and if operating from multiple sites, a site designation number.

.07 An employer and a District Director may enter into an agreement that provides for the retention of copies of tax returns including Forms 8453. In the absence of such an agreement, this information must be retained by the employer. This information is not to be given to a third party, including a third party Transmitter.



**SECTION 18. EFFECT ON OTHER DOCUMENTS**

Rev. Proc. 96-61, 1996-2 C.B. 401, is superseded.

**SECTION 19. EFFECTIVE DATE**

This revenue procedure is effective December 29, 1997.

**SECTION 20. INTERNAL REVENUE SERVICE OFFICE CONTACT**

All questions regarding this revenue procedure should be directed to the Internal Revenue Service. The telephone number for this purpose is (202) 283-0531 (not a toll-free number).

**SECTION 21. PAPERWORK REDUCTION ACT**

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1512.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in this revenue procedure are in sections 5, 8, 9, and 12. This information is required to implement the Form 1040 ELF Program and to enable taxpayers to file their individual income tax returns electronically. The information will be used to ensure that taxpayers receive accurate and essential information regarding the filing of their electronic returns and to identify the persons involved in the filing of electronic returns. The collections of information are required to retain the benefit of participating in the Form 1040 ELF Program. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting and recordkeeping burden is 1,146,272 hours.

The estimated annual burden per respondent/recordkeeper varies from six (6) minutes to 15.5 hours, depending on individual circumstances, with an estimated average of 15.28 hours (or approximately six (6) minutes per electronically filed return). The estimated number of respon-

dents and recordkeepers is 75,000.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. § 6103.

*26 CFR 601.602: Tax forms and instructions. (Also Part I, sections 6012, 6061; 1.6012-5, 1.6061-1)*

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