

Section 6695.—Other Assessable Penalties With Respect To the Preparation of Income Tax Returns for Other Persons

26 CFR 1.6695-1: Other assessable penalties with respect to the preparation of income tax returns for other persons.

(Also Sec. 6061; 301.6061-1)

T.D. 8689

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1 and 301

Methods of Signing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the methods of signing returns, statements, or other documents. The final regulations clarify that the IRS may prescribe a method other than pen and ink for signing any return, statement, or other document. This clarification will facilitate the IRS' implementation of paperless filings.

EFFECTIVE DATE: These regulations are effective on December 12, 1996.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) and the Procedure and Administration Regulations (26 CFR part 301) that relate to signing returns, statements, and other documents. Section 6061 provides in part that "... any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary." Traditionally, the IRS has accepted pen-to-paper signatures. The IRS will prescribe additional methods of signing to be used for electronically filed returns and other documents.

The final regulations clarify that the IRS may prescribe the specific method of signing any return, statement, or other document. The final regulations also provide that the IRS may require a return preparer to use a method of signing other than a pen-to-paper signa-

ture or a facsimile signature stamp when signing a return, statement, or other document.

On July 21, 1995, temporary regulations (T.D. 8603 [1995-2 C.B. 281]) relating to the signing of returns, statements, and other documents were published in the **Federal Register** (60 FR 37589). A notice of proposed rulemaking (IA-10-95 [1995-2 C.B. 478]) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (60 FR 37621).

One comment responding to this notice was received. A public hearing was held on November 2, 1995. After consideration of the comment, the proposed regulations under sections 6061 and 6695 are adopted without change by this Treasury decision, and the corresponding temporary regulations are removed. The comment is discussed below.

Summary of Comments

The commentator suggested that the IRS prescribe by regulation any new method of signing any return, statement, or other document to allow the public to comment on the method's feasibility. Also, the commentator suggested that a regulation would constitute substantial authority and would provide broader public exposure.

The final regulations did not adopt the commentator's suggestion. The final regulations retain the full range of options for prescribing new methods of signing: forms, instructions, or other appropriate guidance. The final regulations provide the IRS with the flexibility to address the particular circumstances of any method of signing. The IRS will continue to inform the public about methods of signing.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative

Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Celia Gabrysh, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.6695-1 is amended by revising the first sentence of paragraph (b)(1) to read as follows:

§ 1.6695-1 Other assessable penalties with respect to the preparation of income tax returns for other persons.

* * * * *

(b) * * * (1) Unless the Secretary has prescribed another method of signing pursuant to § 301.6061-1(b) on or after July 21, 1995, an individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code (Code) or claim for refund of tax under subtitle A of the Code shall manually sign the return or claim for refund (which may be a photocopy) in the appropriate space provided on the return or claim for refund after it is completed and before it is

presented to the taxpayer (or nontaxable entity) for signature. * * *

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§ 1.6695-1T [Removed]

Par. 3. Section 1.6695-1T is removed.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 is amended by removing the entry for § 301.6061-1T and adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.6061-1 also issued under 26 U.S.C. 6061; * * *

Par. 5. Section 301.6061-1 is revised to read as follows:

§ 301.6061-1 Signing of returns and other documents.

(a) *In general.* For provisions concerning the signing of returns and other documents, see the regulations relating to the particular tax.

(b) *Method of signing.* The Secretary may prescribe in forms, instructions, or other appropriate guidance the method of signing any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations.

(c) *Effective dates.* The rule in paragraph (a) is effective December 12, 1996. The rule in paragraph (b) is effective on July 21, 1995.

§ 301.6061-1T [Removed]

Par. 6. Section 301.6061-1T is removed.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved November 1, 1996.

Donald C. Lubick,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on December 11, 1996, 8:45 a.m., and published in the issue of the Federal Register for December 12, 1996, 61 F.R. 65319)