

Department
of the
Treasury

Internal
Revenue
Service

Office of
Chief Counsel

Notice

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CC-2002-030

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September 3, 2002

Electronic Payee Statements

Authorized by Section 401 of the Job

Upon Incorporation

Subject: Creation and Worker Assistance Act of 2002 **Cancel Date:** into the CCDM

Purpose

The purpose of this notice is to announce that legislation has been enacted to enable the Service to issue final regulations permitting electronic payee statements (EPS).

Discussion

I.R.C. §§ 6041 through 6050T (subpart B of part III of subchapter A of chapter 61) require persons to file information returns reporting certain payments. Generally, persons filing information returns must provide payees with statements of the reported amounts.

Many businesses prefer to furnish payee statements electronically. On February 14, 2001, the Service issued temporary regulations that authorized electronic Forms W-2, Wage and Tax Statements; Forms 1098-T, Tuition Payment Statements; and Forms 1098-E, Student Loan Interest Statements (the EPS regulations). See TD 8942, 66 F.R. 10191. The Service proposed the same rules in NPRM, REG-107186-00, 66 F.R. 10247 (February 14, 2001). The regulations could authorize electronic furnishing of these forms, because the statutes requiring these payee statements do not limit the method of furnishing to paper delivery. See sections 6041(d), 6050S(d), and 6051.

The Service could not, however, issue regulations authorizing electronic furnishing of all payee statements, because certain statutes require paper statements. For example, section 6042(c) specifies that payee statements for dividends and corporate earnings and profits (Forms 1099-DIV) "shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed)... ." See also sections 6044(e) and 6049(c)(2).

Effective March 9, 2002, section 401 of JCWAA, an off-Code provision, removed the paper delivery impediment by authorizing all payee statements required by sections 6041

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through 6050T to be furnished electronically. The Service intends to implement the statutory change in finalizing the proposed EPS regulations. The final regulations will allow a person to furnish a payee's statement electronically only if the payee consents to the electronic format and waives paper delivery. Section 401 of JCWAA expressly imposes the payee consent requirement. Cf. Temp. Treas. Reg. §§ 31.6051-1T(j), 1.6050S-1T, and 1.6050S-2T.

Any questions about the provisions of this Notice may be referred to Branch 1, Administrative Provisions and Judicial Practice Division, at 202 -622-4910.

/s/
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(Procedure and Administration)