

Department
of the
Treasury

Internal
Revenue
Service

Office of
Chief Counsel

Notice

[
[CC-2004-008]
]

December 16, 2003

Subject: Filing Court Documents
Electronically in District Courts and
Bankruptcy Courts

Cancel Date: Upon incorporation
into CCDM

Purpose

This Notice provides guidance to all Office of Chief Counsel personnel who are required to file court documents electronically in accordance with local United States Bankruptcy, District Court, or other Federal court filing requirements.

Background

The federal judiciary is in transition to a paperless court with the nationwide implementation of the Case Management/Electronic Case Files (CM/ECF) systems. CM/ECF replaces aging electronic docketing and case management systems, and provides courts the capability to maintain case file documents in electronic format and to accept filings over the Internet. CM/ECF systems are now in use in at least twenty-five district courts, sixty bankruptcy courts, the Court of International Trade, and the Court of Federal Claims. Under current plans, the number of CM/ECF courts will increase steadily each month into 2005. Attorneys practicing in courts offering the electronic filing capability are able to file documents directly with the courts over the Internet. The CM/ECF system uses standard computer hardware, a secure Internet connection and a browser, and accepts documents in Portable Document Format (PDF). Electronic access to individual case docket sheets and filed documents is available through Public Access to Court Electronic Records (PACER).

In addition to making electronic filing of court documents available to the parties, several bankruptcy courts are now requiring that proposed post-hearing orders be submitted electronically to the judge's chambers, and will not accept paper versions of proposed orders. Although most filings are made by the Department of Justice, counsel attorneys, acting as Special Assistant U. S. Attorneys, may be required to file documents electronically with the bankruptcy courts.

Filing Instructions: Binder _____

NO: Circulate ___ Distribute x to: All Personnel x Attorneys ___ In: _____

Other _____

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It is the policy of the Internal Revenue Service, including the Office of Chief Counsel, that sensitive but unclassified (SBU) information, including tax returns and return information, should not be transmitted over the Internet. See IRM 1.10.3.2.2 (rev. 4-01-2003) and IRM 25.10.1.7.9.3(4) (rev. 1-01-2002).

Section 6103, which governs the disclosure of returns and return information, does not prohibit the electronic transmission of tax information. The disclosure of certain returns and return information in judicial tax administration proceedings is permitted under section 6103(h)(4), with no condition on the manner of the disclosure.

The Service's policy prohibition on the transmission of return and return information over the Internet is a result of concerns for the security of this sensitive information and is intended to prevent unlawful disclosures. The policy was not intended to contravene the explicit grant of authority by Congress to meet the needs of the federal judiciary system. Transmissions in accordance with court rules do not raise unacceptable security issues, as the judicial safeguards parallel those used by the Service's stakeholders who transmit tax returns electronically to the Service.

Discussion

When required by court rules, Counsel employees are permitted to file documents electronically with the court's CM/ECF electronic docket provided that the submitting attorney has received the court's login information and created a secure password. The CM/ECF docket is the court's electronic docket; it is not a specific judge's docket or chambers. Filing a document into CM/ECF requires a login and password. Each court determines to whom it will issue filing logins and passwords.

When local rules or court orders require that proposed orders be emailed to a federal judge, Counsel employees may email proposed orders to the judge's *government* email address, e.g., xxx.gov. To avoid the appearance of an ex parte communication when proposed post hearing orders are emailed to the judge, Counsel employees should send the proposed order to opposing counsel or the unrepresented debtor/taxpayer by fax or overnight delivery service. Counsel employees should not email pleadings, proposed orders, or briefs directly to opposing counsel or an unrepresented debtor/taxpayer.

Local court rules will designate which word processing program is accepted for court filings such as pleadings, proposed orders or briefs, although the CM/ECF system is designed to accept court documents in Microsoft Word or Word Perfect. For more information, please contact the local court administrator or the website for the U.S. Courts at www.uscourts.gov/cmecf/cmecf.html. CM/ECF systems are designed to accept attachments only in PDF format. This format allows a document to retain its pagination, formatting, and fonts no matter what type of computer is used to view or print the document.

