

Rev. Proc. 96-20

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SECTION 1. PURPOSE

This revenue procedure informs those who participate in the 1996 On-Line Service Electronic Filing Program (“On-Line Filing Program”) for Form 1040 and Form 1040A, U.S. Individual Income Tax Return, and Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents, of their obligations to the Internal Revenue Service, taxpayers, and other participants. This revenue procedure updates Rev. Proc. 95-13, 1995-1 C.B. 514.

SECTION 2. BACKGROUND AND CHANGES

.01 During the 1995 federal income tax filing season, the Service conducted a limited On-Line Filing Program that allowed selected on-line service providers to transmit tax returns submitted for on-line electronic filing by a

limited number of subscribers. For the 1996 federal income tax filing season, the On-Line Filing Program is expanded to allow additional participants to transmit tax returns submitted for on-line electronic filing.

.02 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 C.F.R. 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.

.03 For purposes of this revenue procedure, an on-line electronically filed Form 1040, Form 1040A, or Form 1040EZ is a composite return consisting of electronically transmitted data and certain paper documents. The non-electronic portion of the return consists of Form 8453-OL, U.S. Individual Income Tax Declaration for On-Line Service Electronic Filing, and other paper documents that cannot be electronically transmitted. Form 8453-OL must be received by the Service before an on-line electronically filed return is complete. An on-line electronically filed 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-OL.

.04 The Service will periodically issue a publication that lists the forms and schedules associated with a Form

1040 that can be electronically transmitted.

.05 A Form 1040, a Form 1040A, or a Form 1040EZ cannot be electronically filed after October 15, 1996, notwithstanding the fact that the taxpayer has been granted an extension to file a return beyond that date.

.06 An amended tax return cannot be electronically filed. 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.

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

.08 A tax return for a decedent cannot be electronically filed. The decedent's spouse or personal representative must file a paper tax return for the decedent.

.09 This revenue procedure updates Rev. Proc. 95-13, which applied to the On-Line Filing Program for the 1995 filing season. The updates include changes in the On-Line Filing Program for the 1996 filing season, clarifications of prior On-Line Filing Program statements, and additional guidance derived from other Service documents that relate to the On-Line Filing Program. Some of the updates are:

(1) additions to the types of entities that may participate in the On-Line Filing Program for the 1996 filing season (section 3.02);

(2) additions to the information required on Form 8633 (section 4.02);

(3) additions to the reasons to submit a revised Form 8633 (section 4.03);

(4) certain officers of publicly held corporations and bank officials may not need to submit fingerprints with their applications (section 4.08);

(5) additions to the reasons that may result in the rejection of an application to participate in the On-Line Filing Program (sections 4.11(11) and 4.11(12));

(6) an On-Line Filer must notify the Service when it discontinues participation in the program (section 5.06);

(7) additions to the responsibilities of an On-Line Service Provider (section 5.09);

(8) additions to the requirements for accepting and transmitting the electronic portions of returns (section 5.13);

(9) additions to the information that must be provided to a taxpayer (sections 5.14 and 5.15);

(10) additions to the methods of notifying a taxpayer of the status of a transmitted return (section 5.17);

(11) a Transmitter is required to bundle Forms 8453-OL received from taxpayers and send the forms to the Austin Service Center on a weekly basis (section 5.18);

(12) taxpayer inquiries regarding the status of a refund should be referred to the IRS Tele-Tax system or the Austin Service Center Customer Service Department (section 8.04);

(13) On-Line Filers must adhere to all relevant federal, state, and local consumer protection laws that relate to advertising and soliciting (section 11.02);

(14) the effect of suspending a Principal or Responsible Official on entities that listed the Principal or Responsible Official on Form 8633 (section 12.02);

(15) clarification of the two-year period for denial or suspension (section 12.09); and

(16) modifications to the administrative review processes for denials and suspensions (sections 13 and 14).

SECTION 3. ON-LINE FILING PARTICIPANTS—DEFINITIONS

.01 After acceptance into the On-Line Filing Program, as described in section 4 of this revenue procedure, a participant is referred to as an "On-Line Filer."

.02 An On-Line Filer is categorized as follows:

(1) **ON-LINE SERVICE PROVIDER.** An "On-Line Service Provider" is an on-line information service organization that provides paying subscribers dial-up access to a variety of data bases. For purposes of the On-Line Filing Program, an On-Line Service Provider must also have:

(a) an established subscriber or client base to whom the On-Line Service Provider offers services on a continuing basis and about which the On-Line Service Provider maintains certain minimum information identifying the subscriber. Such information could include the subscriber's name, account number, or credit card or demand deposit account number;

(b) a port capacity of at least 1,000 lines or the ability to simultaneously service 1,000 customers;

(c) a network of personal computers that are linked by modems;

(d) access to a broad spectrum of information and/or entertainment services; and

(e) a client base that has the ability to communicate using electronic mail.

(2) **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.

(3) **TRANSMITTER.** A "Transmitter" transmits the electronic portion of a return directly to the IRS Data Communications Subsystem. 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. For example, a bump-up service provider may increase the transmission rate or line speed of information from 4800 bits per second (BPS) to 9600 BPS. Service specifications for electronic filing require an asynchronous speed of 300 BPS to 19,200 BPS or a bisynchronous speed of 4800 BPS to 19,200 BPS.

.03 The On-Line Filer categories are not mutually exclusive. For example, an On-line Service Provider can, at the same time, be considered a Transmitter or Software Developer depending on the function(s) performed.

SECTION 4. ACCEPTANCE IN THE ON-LINE FILING PROGRAM

.01 The Service reviewed and processed applications received on or before December 1, 1995, for acceptance into the 1996 On-Line Filing Program. Revised applications described in section 4.03 of this revenue procedure must be submitted within 14 days of the change(s) reflected on the revised Form 8633, Application to Participate in the Electronic Filing Program.

.02 Applicants were required to submit a new Form 8633 with fingerprint cards for appropriate individuals to the Austin Service Center, check the "new" box at the top of the form, and write the letters "OLF" next to this box, if:

(1) the applicant had never actively participated in the On-Line Filing Program;

(2) the applicant had previously been denied participation in the On-Line Filing Program; or

(3) the applicant had been suspended from the On-Line Filing Program.

.03 Participants in the 1995 On-Line Filing Program must submit a revised Form 8633 to the Austin Service Center, check the "revised" box at the top of the form, and write the letters "OLF" next to this box, to participate in the 1996 On-Line Filing Program if:

(1) the participant functioned solely as a Software Developer during the 1995 On-Line Filing Program and intends to function as an On-Line Service Provider or Transmitter during the 1996 On-Line Filing Program;

(2) there is an additional Principal, such as a partner or corporate officer, that must be listed on Form 8633, line 1k(1), "Principals of Your Firm or Organization";

(3) there is a "Principal" listed on Form 8633, line 1k(1), that should be deleted;

(4) the "Responsible Official" on Form 8633, line 1k(2) changes; or

(5) there is any change to:

(a) the Firm name or Doing Business As (DBA) name;

(b) the business mailing address;

(c) the contact representative or the alternate contact representative's name or telephone number;

(d) the On-Line Filer's form of organization, as described on Form 8633 line 1k; or

(e) the electronic functions performed by an On-Line Filer, other than an On-line Filer that functions solely as a Software Developer.

.04 A Form 8633 submitted pursuant to section 4.03 (1) through (4) of this revenue procedure must have completed fingerprint cards attached for the appropriate individual(s). All Principals and the Responsible Official must sign the Form 8633.

.05 A Form 8633 submitted pursuant to section 4.03(5) of this revenue procedure needs to include only entries on lines 1a through 1i and the information being revised. A Principal or Responsible Official must sign the Form 8633.

.06 To be accepted into the 1996 On-Line Filing Program, an applicant or a 1995 On-Line Filing Program participant that is described in section 4.03(1) through (4) of this revenue procedure had to:

(1) file a properly completed Form 8633 with the Austin Service Center; and

(2) successfully complete the necessary testing at the Austin Service Center if the applicant intends to function as a Transmitter or Software Developer.

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

(1) be a United States citizen or an alien admitted for lawful permanent residence as described in 8 U.S.C. § 1101(a)(20) (1988);

(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 subsection 4.08 of this revenue procedure; and

(4) pass a suitability check that includes a credit check and a fingerprint check.

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

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

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

(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.

.09 The Service will issue to eligible applicants for the 1996 On-Line Filing Program, as well as participants in the 1995 On-Line Filing Program that do not have to reapply pursuant to section 4.03 of this revenue procedure:

(1) a letter of acceptance into the On-Line Program for the 1996 filing season;

(2) an Electronic Filing Identification Number (EFIN); and

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

No one without these credentials may participate in the 1996 On-Line Filing Program.

.10 If an On-Line Filer is a Software Developer that performs no other function in the On-Line Filing Program but software development, no Principal or Responsible Official needs to pass a suitability check.

.11 The following reasons may have resulted in the rejection of an application to participate in the 1996 On-Line Filing Program (this list is not all-inclusive):

(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 business or personal tax returns;

(3) failure to timely pay personal or business tax liabilities;

(4) assessment of penalties;

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

(6) other facts or conduct of a disreputable nature that would reflect adversely on the On-Line Filing Program;

(7) misrepresentation on an application;

(8) suspension or rejection from either the Electronic Filing Program or the On-Line Filing Program in a prior year;

(9) unethical practices in return preparation;

(10) stockpiling returns prior to official acceptance into the On-Line Filing Program (see section 5.20 of this revenue procedure);

(11) knowingly and directly or indirectly employing or accepting assistance from any person who has been denied acceptance into the Electronic Filing Program or the On-Line Filing Program, or is suspended from the Electronic Filing Program or the On-Line Filing Program. This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the Electronic

Filing Program or the On-Line Filing Program; or

(12) knowingly and directly or indirectly accepting employment as an associate, correspondent, or as a sub-agent from, or sharing fees with, any person who has been denied acceptance into the Electronic Filing Program or the On-Line Filing Program, or is suspended from the Electronic Filing Program or the On-Line Filing Program. This includes any individual whose actions resulted in the rejection or suspension of a corporation or a partnership from the Electronic Filing Program or the On-Line Filing Program.

SECTION 5. RESPONSIBILITIES OF AN ON-LINE FILER

.01 To ensure that complete returns are accurately and efficiently filed, an On-Line Filer must comply with all the publications and notices of the Service. Currently, these publications and notices include:

(1) Rev. Proc. 95-49, 1995-50 I.R.B. 5;

(2) Handbook for Electronic Filers of Individual Income Tax Returns, Publication 1345;

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

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

(5) Electronic Filing System Bulletin Board (EFS Bulletin Board).

.02 An On-Line Filer must maintain a high degree of integrity, compliance, and accuracy.

.03 An On-Line Filer may only accept returns for on-line electronic filing directly from taxpayers or from another On-Line Filer.

.04 If an On-Line 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 on the amount of taxes saved. An On-Line Filer may not charge a separate fee for Direct Deposit. See section 9 of this revenue procedure.

.05 An On-Line Filer that has been accepted into the 1996 On-Line Filing Program must submit a revised Form 8633 to the Austin Service Center when any of the conditions or changes described in section 4.03 of this revenue procedure occur.

.06 An On-Line Filer must notify the Austin Service Center within 14 days of discontinuing its participation in the On-Line Filing Program.

.07 An On-Line Filer must ensure that an on-line electronic return is filed on or before the due date of the return. A tax 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-OL 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 taxpayer complies with section 7.01 of this revenue procedure, the return will be deemed timely filed. If the electronic portion of a return is initially transmitted on or shortly before the due date and is ultimately rejected, but the taxpayer complies with section 5.16 of this revenue procedure, the return will be deemed timely filed. In the case of a balance due return, see section 10 of this revenue procedure for instructions on how to make a timely payment of tax.

.08 An On-Line Filer must ensure that no other entity uses its EFIN or ETIN. An On-Line Filer must not transfer its EFIN or ETIN by sale, loan, gift, or otherwise to another entity.

.09 An On-Line Filer that functions as an On-Line Service Provider must:

(1) provide assistance to a subscriber in transmitting the electronic portion of a tax return;

(2) ensure that no more than three tax returns are filed electronically by one subscriber;

(3) not provide to a subscriber software that has a Service-assigned production password built into the software;

(4) immediately deliver to a subscriber the information provided by a Transmitter under section 5.14 or 5.15 of this revenue procedure; and

(5) if requested, inform a subscriber that information regarding a refund can be obtained by using the IRS Tele-Tax system or contacting the Austin Service Center Customer Service Department.

.10 An On-Line Filer that functions as a Software Developer must:

(1) promptly correct any software error which causes an electronic return to be rejected;

(2) promptly distribute any software correction;

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

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

.11 An On-Line Filer that functions as a Transmitter must:

(1) assign (as prescribed in Publication 1345) a Declaration Control Number (DCN) to the electronic portion of each return received from a taxpayer;

(2) include the assigned DCN in the transmission of the electronic portion of a return;

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

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

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

(6) match the acknowledgement file to the original transmission file and notify the taxpayer of the status of a transmitted return as prescribed in section 5.17 of this revenue procedure;

(7) immediately contact the Electronic Filing Unit at the Austin Service Center for further instructions if an acknowledgement of acceptance for processing has not been received by the Transmitter within two work days of transmission or if the Transmitter receives an acknowledgement for a return that was not transmitted on the designated transmission;

(8) contact the Austin Service Center Electronic Filing Unit for assistance if a return has been rejected after three transmission attempts;

(9) ensure the security of all transmitted data;

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

(11) retain, until the end of the calendar year in which a return was filed, 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;

(12) ensure that it does not transmit or accept for transmission more than three electronic returns originating from one software package; and

(13) ensure that it does not use software that has a Service-assigned production password built into the software.

.12 A Transmitter that provides transmission services to other unrelated On-Line Filers must only accept electronic returns for transmission to the IRS Data Communications Sub-system from accepted On-Line Filers. A Transmitter must include an On-Line Service Provider's EFIN on each return that the Transmitter accepts from an On-Line Service Provider.

.13 A Transmitter may only accept electronic portions of returns for transmitting that contain a consent to disclose statement. The Transmitter must remove the consent to disclose statement from the electronic portion of the return prior to transmission of that return to the Austin Service Center. The Transmitter must retain the consent to disclose statement until the end of the calendar year in which the return was filed.

.14 If the electronic portion of a taxpayer's return is acknowledged as accepted by the Service, the Transmitter must notify the taxpayer, as prescribed in section 5.17 of this revenue procedure, of the following:

(1) the date the transmission was accepted;

(2) the DCN;

(3) where to put the DCN on Form 8453-OL;

(4) the requirement to properly complete and timely submit a Form 8453-OL with accompanying paper documents within one work day;

(5) the Transmitter's address to which Form 8453-OL with accompanying paper documents must be sent;

(6) that a Form 8453-OL must be received by the Service before an on-line electronically filed return is complete; and

(7) the taxpayer's failure to timely submit a Form 8453-OL with accompanying paper documents could result in the Service not allowing the taxpayer to file a tax return through the On-Line Filing Program in the future.

.15 If the electronic portion of a taxpayer's return is acknowledged as

rejected by the Service, the Transmitter must notify the taxpayer, as prescribed in section 5.17 of this revenue procedure, of the following:

(1) that the electronic portion of the return submitted by the taxpayer has not been accepted for processing;

(2) the date of the rejection;

(3) what the reject code means;

(4) what steps the taxpayer needs to take to correct the error that caused the rejection; and

(5) the information contained in section 5.16 of this revenue procedure.

.16 If the taxpayer chooses not to have the rejected return retransmitted or if the return cannot be accepted for processing, the taxpayer, in order to file a timely return, must file a paper return by the later of:

(1) the due date of the return; or

(2) within ten calendar days of the Service's acknowledgment that the return is rejected or the notice that the return cannot be retransmitted, with an explanation of why the return is being filed after the due date.

.17 A Transmitter that transmits a return of a taxpayer who is a subscriber of an On-Line Service Provider must notify the taxpayer by sending an electronic transmission to the On-Line Service Provider within two work days of retrieving the acknowledgement file. A Transmitter that transmits a return of a taxpayer who is not a subscriber of an On-Line Service Provider must notify the taxpayer by:

(1) sending an electronic transmission to the taxpayer within two work days of retrieving the acknowledgement file; or

(2) mailing a written notification to the taxpayer within one work day of retrieving the acknowledgement file.

.18 A Transmitter must prepare batches of Forms 8453-OL (as prescribed in Publication 1345) and send the batches to the Austin Service Center on a weekly basis.

.19 A Transmitter must, if requested, make available to the Service all items required by this section to be retained until the end of the calendar year in which a return was filed. The Transmitter must make this material available either at the business address of the Transmitter or from the contact person named on Form 8633.

.20 A Transmitter is responsible for ensuring that stockpiling does not occur. Stockpiling means collecting

returns from taxpayers prior to official acceptance into the On-Line Filing Program, or, after official acceptance into the On-Line Filing 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.

.21 An On-Line Filer may not offer, nor in any way participate in or facilitate, a Refund Anticipation Loan (RAL) in connection with any return filed under the On-Line Filing Program. A RAL is money borrowed by a taxpayer that is based on a taxpayer's anticipated income tax refund.

.22 An On-Line Filer may not charge a separate fee for a Direct Deposit.

.23 In addition to the specific responsibilities described in this section, an On-Line Filer must meet all the requirements in this revenue procedure to keep the privilege of participating in the On-Line Filing Program.

SECTION 6. PENALTIES

.01 Penalties for Disclosure or Use of Information.

(1) An On-Line 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 disclosure or use of tax return information, as described in § 301.7216-1(a). In general, that regulation provides that any preparer who discloses or uses any tax return information for a purpose other than preparing, assisting in preparing, or obtaining or providing services in connection with the preparation of a tax return is guilty of a misdemeanor. In addition, § 6713 of the Internal Revenue Code provides for civil penalties that may be assessed against a preparer who makes an unauthorized disclosure or use of tax return information.

(2) Under § 301.7216-2(h), disclosure of tax return information among accepted On-Line Filers for the purpose of preparing a return is permissible. For example, it is permissible for an On-Line Service Provider to pass on tax return information to a Transmitter for the purpose of having an on-line electronic return formatted and trans-

mitted to the Service. However, if the tax return information is disclosed or used in any other way, an On-Line Filer may be guilty of a misdemeanor as 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 who meets the definition of an income tax return preparer under § 7701(a)(36) and § 301.7701-15. Examples of 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), an On-Line Filer is not an income tax return preparer for the purpose of assessing most preparer penalties as long as the On-Line Filer's services are limited to "typing, reproduction, or other mechanical assistance in the preparation of a return or claim for refund."

(3) If an On-Line Filer 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 Total Tax amount, Withholding amount, Refund amount, or Amount Owed shown on Form 8453-OL differs from the corresponding amount on the electronic portion of the tax return by no more than \$7;

(b) the Total Income amount shown on Form 8453-OL 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 On-Line Filer alters the return information in a substantive way, rather than having the taxpayer alter the return, the On-Line Filer will be considered to be an income tax return preparer for purposes of § 7701(a)(36).

(5) If an On-Line Filer goes beyond mechanical assistance, the On-Line Filer may be held liable for income tax return preparer penalties.

Rev. Rul. 85-189, 1985-2 C.B. 341, describes a situation where a Software Developer was determined to be an income tax return preparer and subject to certain preparer penalties.

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

SECTION 7. FORM 8453-OL, U.S. INDIVIDUAL INCOME TAX DECLARATION FOR ON-LINE SERVICE ELECTRONIC FILING

.01 Procedures for Completing Form 8453-OL.

(1) Form 8453-OL must be completed by the taxpayer in accordance with the instructions for Form 8453-OL.

(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-OL that the taxpayer(s) signs and will mail to the Transmitter.

(3) An On-Line Filer's address must not appear on Form 8453-OL or anywhere in the electronic portion of a return.

(4) If the electronic portion of a return was filed as a joint return, both spouses' signatures are required on Form 8453-OL.

(5) The taxpayer's Form 8453-OL must be sent to the address provided by Transmitter within one work day after the taxpayer is provided notification that the electronic portion of the taxpayer's return has been accepted for processing.

.02 If the Service determines that a Form 8453-OL is missing, the taxpayer must provide the Service with a replacement. A taxpayer must also provide a copy of any Form W-2, Wage and Tax Statement, Form W-2G, Certain Gambling Winnings, Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., and all other attachments to Form 8453-OL.

.03 If a substitute Form 8453-OL is used, it must be approved by the Service prior to use. See Rev. Proc. 95-16, 1995-1 C.B. 525.

SECTION 8. INFORMATION AN ON-LINE FILER MUST PROVIDE TO THE TAXPAYER

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

.02 The Transmitter 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.

.03 The Transmitter must give the taxpayer the Declaration Control Number (DCN) for the taxpayer's Form 8453-OL and instructions to the taxpayer for entering the DCN on Form 8453-OL.

.04 If a taxpayer inquires about the status of a refund, the Transmitter, or On-Line Service Provider if the taxpayer is a subscriber, must advise the taxpayer to use the IRS Tele-Tax system or contact the Austin Service Center Customer Service Department. The Transmitter or On-Line Service Provider should also advise the taxpayer to wait at least three weeks from the acceptance date of the electronic return before making an inquiry regarding the status of a refund.

.05 The Transmitter must inform the taxpayer that the address on the electronic portion of the return, once processed, 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, On-Line Filer, financial institution, or any of their agents.

SECTION 10. BALANCE DUE RETURNS

.01 An electronically filed balance due return is transmitted to the Austin Service Center in the same manner that a refund or zero balance return is filed. A balance due return is not complete unless and until the Service receives Form 8453-OL completed and signed by the taxpayer.

.02 The Transmitter must furnish Form 1040-V, Electronic 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, 1996, will result in the imposition of interest and may result in the imposition of penalties.

SECTION 11. ADVERTISING STANDARDS FOR ON-LINE FILERS

.01 An On-Line Filer 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, FMS, or the Treasury Department. Any claims concerning faster refunds by virtue of electronic filing must be consistent with the language in official Service publications.

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

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

.04 An On-Line Filer must not use improper or misleading advertising in relation to the On-Line Filing Program (including the time frames for refunds).

.05 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.

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

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

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

.09 If an On-Line Filer uses direct mail or fax communications to advertise, the On-Line Filer 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.

.10 Acceptance to participate in the On-Line Filing Program does not imply endorsement by the Service or FMS of the software or quality of services provided.

SECTION 12. MONITORING AND SUSPENSION OF AN ON-LINE FILER

.01 The Service will monitor an On-Line Filer for conformity with this revenue procedure. The Service can immediately suspend, without notice, an On-Line Filer from the On-Line Filing Program. However, in most circumstances, a suspension from participation in the On-Line Filing Program is effective as of the date of the

letter informing the On-Line Filer of the suspension. Before suspending an On-Line Filer, the Service may issue a warning letter that describes specific corrective action for deviations from this revenue procedure.

.02 If a Principal or Responsible Official is suspended from the On-Line Filing 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-OL, as well as their overall legibility (especially the recording of the DCN).

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

.05 The Service will monitor complaints about an On-Line Filer and issue a warning or suspension letter as appropriate.

.06 The Service reserves the right to suspend the electronic filing privilege of any On-Line Filer that violates any provision of this revenue procedure. Generally, the Service will advise a suspended On-Line Filer concerning the requirements for reacceptance into the On-Line Filing Program. The following reasons may lead to a warning letter and/or suspension of an On-Line Filer from the On-Line Filing Program (this list is not all-inclusive):

(1) the reasons listed in section 4.11 of this revenue procedure;

(2) deterioration in the format of individual transmissions;

(3) unacceptable cumulative error or rejection rate;

(4) stockpiling returns at any time while participating in the On-Line Filing Program;

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

(6) failure on the part of a Transmitter to notify the taxpayer, as prescribed in section 5.17 of this revenue procedure, of the status of a transmitted return within two work days of receipt of the acknowledgement files from the Service;

(7) failure on the part of a Transmitter to batch and send Forms 8453-

OL to the Austin Service Center on a weekly basis;

(8) significant complaints about an On-Line Filer;

(9) failure on the part of an On-Line Filer to ensure that no other entity uses 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.

(11) failure on the part of an On-Line Filer to cooperate with the Service's efforts to investigate electronic filing abuse;

(12) violation of the advertising standards described in section 11 of this revenue procedure;

(13) failure to maintain and make available records as described in section 5.19 of this revenue procedure;

(14) failure to supply a taxpayer with an accurate DCN;

(15) failure to give effective instructions to a taxpayer concerning the entry of the DCN on Form 8453-OL;

(16) failure to timely pay any applicable fees, as implemented by subsequent guidance; or

(17) failure to timely submit a revised Form 8633 notifying the Service of changes described in section 4.03 of this revenue procedure.

.08 The Service will list in the Internal Revenue Bulletin, district office listings, district office newsletters, and on the EFS Bulletin Board the name and owner(s) of any entity suspended from the On-Line Filing Program and the effective date of the suspension.

.09 Denials of applications and suspensions of participation in the On-Line Filing Program will result in:

(1) a rejected applicant not being reconsidered for participation in the On-Line Filing Program for at least two years; and

(2) a suspended On-Line Filer not being reconsidered for participation in the On-Line Filing Program for at least two years.

For purposes of this section 12.09, two years means the remaining months in the calendar year of denial of participation or suspension and the following two calendar years.

SECTION 13. ADMINISTRATIVE REVIEW PROCESS FOR DENIAL OF PARTICIPATION IN THE ON-LINE FILING PROGRAM

.01 An applicant that has been denied participation in the On-Line Filing 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 appropriate district office will either (1) accept an applicant into the On-Line Filing Program, or (2) issue a proposed letter of denial that explains to the applicant why the district office proposes to reject the application to participate in the On-Line Filing Program.

.03 An applicant who receives a proposed letter of denial may respond, in writing, to the district office that issued the proposed letter of denial. The applicant's response must address the district office's explanation for proposing the denial to participate. The district office must receive the applicant's response within 30 calendar days of the date of the proposed letter of denial.

.04 Upon receipt of an applicant's written response, the district office will reconsider its proposed letter of denial. The district office may (1) withdraw its proposed letter of denial and admit the applicant into the On-Line Filing Program, or (2) finalize its proposed letter of denial and issue it to the applicant.

.05 If an applicant receives a final letter from the district office that denies the applicant participation in the On-Line Filing Program, the applicant is entitled to an appeal, in writing, to the Director of Practice.

.06 The appeal must be filed with the district office that issued the denial letter within 30 calendar days of the date of the denial letter. An applicant's written appeal must contain a detailed explanation, with supporting documentation, of why the denial should be reversed. In addition, the applicant must include a copy of the applicant's Form 8633 and a copy of the denial letter.

.07 The district office whose denial is being appealed 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 13.06 of this revenue procedure that the appli-

cant has submitted to the district office. The district office will forward to the Director of Practice these materials within 15 calendar days of receipt of the applicant's appeal to the Director of Practice.

.08 Failure to respond within the 30-day periods described in sections 13.03 and 13.06 of this revenue procedure irrevocably terminates an applicant's right to an administrative review or appeal.

SECTION. 14. ADMINISTRATIVE REVIEW PROCESS FOR SUSPENSION FROM THE ON-LINE FILING PROGRAM

.01 An On-Line Filer that has been suspended from participation in the On-Line Filing Program has the right to an administrative review. During the administrative review process, the suspension remains in effect.

.02 If an On-Line Filer receives a proposed suspension letter from a district office or a service center, the On-Line Filer may submit a detailed written explanation, with supporting documentation, of why the proposed suspension letter should be withdrawn. The On-Line Filer must ensure that the district office or service center that issued the proposed suspension letter receives the On-Line Filer's written response within 30 calendar days of the date of the proposed suspension letter.

.03 Upon receipt of the On-Line Filer's written response, the district office or service center will reconsider its proposed suspension of the On-Line Filer. The district office or service center will either withdraw its proposed suspension letter and reinstate the On-Line Filer or finalize the suspension letter and issue it to the On-Line Filer.

.04 If the On-Line Filer receives a suspension letter from a district office or a service center, the On-Line Filer is entitled to an appeal, in writing to the Director of Practice.

.05 The On-Line Filer must ensure that the district office or service center that issued the suspension letter receives the On-Line Filer's written appeal for review by the Director of Practice within 30 calendar days of the date of the suspension letter. The On-Line Filer's written appeal for review must contain detailed reasons, with supporting documentation, for reversal of the suspension. In addition, the On-Line Filer must include a copy of its

Form 8633 and a copy of the suspension letter.

.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 to the Director of Practice its file on the On-Line Filer and the material described in section 14.05 of this revenue procedure that the On-Line Filer has submitted to the district office or the service center. The district office or the service center will forward to the Director of Practice these materials within 15 calendar days of the receipt of an On-Line Filer's written request for appeal.

.05 Failure to appeal within the 30-day period described in section 14.05 of this revenue procedure irrevocably terminates an On-Line Filer's right to an appeal.

SECTION 15. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 95-13, 1995-1 C.B. 514, is superseded.

SECTION 16. EFFECTIVE DATE

This revenue procedure is effective December 29, 1995.

SECTION 17. INTERNAL REVENUE SERVICE OFFICE CONTACT

All questions regarding the electronic filing aspects of the On-Line Filing Program should be directed to the Electronic Filing Office. The telephone number for this purpose is (202) 283-1010 (not a toll-free number). All questions regarding the on-line aspects of this program should be directed to the National Office Productivity Enhancement Section. The telephone number for this purpose is (202) 283-0265 (not a toll-free number).