

Form 1065 Electronic Filing Waiver Request Procedures

Announcement 2002-3

Section 6011(e) of the Internal Revenue Code and section 301.6011-3(a) of the Regulations on Procedure and Administration require partnerships with more than 100 partners to file their partnership returns (Form 1065 series) on magnetic media. The regulations define “magnetic media” to include electronic filing, if electronic filing is required by the Internal Revenue Service (Service).

Beginning with taxable years ending on or after December 31, 2000, the Service will require partnerships with more than 100 partners to file their partnership returns electronically. IRS Publication 1524 contains instructions for filing partnership returns electronically, and excludes certain partnerships from the electronic filing requirement. For Tax Year 2001, the IRS has excluded Partnerships with the following type of returns from the electronic filing requirement:

- 1) Fiscal Year Filers
- 2) Foreign Address Partnerships
- 3) Amended Returns
- 4) Delinquent Returns

(Note: For a detailed list of the exclusions, refer to Publication 1524.)

Section 301.6011-3(b) of the regulations permits the Commissioner of Internal Revenue to waive the electronic filing requirement if the partnership demonstrates that a hardship would result if it

were required to file its return electronically. The regulations require partnerships seeking a waiver to request one in the manner prescribed by the Service.

To request a waiver for the taxable year ending December 31, 2001, partnerships must file a written request containing the following information:

(1) A notation at the top of the request stating, in large letters, “**Form 1065 e-file Waiver Request: IRC Section 6011 (e)(2)**”;

(2) The name, federal tax identification number, and mailing address of the partnership;

(3) The taxable year for which the waiver is requested;

(4) A detailed statement which lists:

a) the steps the partnership has taken in an attempt to meet its requirement to file its return electronically,

b) why the steps were unsuccessful,

c) the hardship that would result, including any incremental cost to the partnership of complying with the electronic filing requirements. Incremental costs are those costs that are above and beyond the costs to file on paper. The incremental costs must be supported by a detailed computation. The detailed computation must include a schedule detailing the costs to file on paper and the costs to file electronically.

(5) A statement as to what steps the partnership will take to assure its ability to electronically file its partnership return for the next tax year.

(6) A statement (signed by the Tax Matters Partner, as defined in section 6231(a)(7) of the Code) indicating:

“Under penalties of perjury, I declare that the information contained in this waiver request is true, correct and complete to the best of my knowledge and belief.”

All requests for waiver must be filed with the Ogden Submission Processing Center during one of the following periods:

1) For returns due April 15, 2002 (Form 8736 Extension not filed); January 15, 2002, to March 1, 2002.

2) For returns due July 15, 2002 (Form 8736 Extension filed); January 15, 2002, to June 1, 2002.

3) For returns due October 15, 2002 (Form 8800 Extension filed and approved); January 15, 2002, to September 15, 2002.

Requests from the partnership’s tax advisor/preparer must be accompanied by a valid power of attorney. The address for the Ogden Submission Processing Center:

Internal Revenue Service
Ogden Submission Processing Center
P.O. Box 9941
Ogden, UT 84409

Attn: Form 1065 e-file Waiver Request,
Stop 1057

Fax: 801-620-7622

(Note: Do not attach the waiver request to the partnership’s paper tax return. Also, do not file extension requests with the waiver.)

The Service will approve or deny waiver requests based on the facts and circumstances of each request. In determining whether to approve or deny a waiver request, the Service will consider the ability of the partnership to file its return electronically without incurring an undue economic hardship.

Within 30 days after receipt of the waiver request, the Service will send a letter to the partnership either approving or denying the request for waiver. Partnerships may not appeal a denial of a waiver request. However, partnerships may request a waiver of any penalty imposed by the Service for failing to file their partnership returns electronically. For further information regarding penalty waivers, see IRS Notice 746.

For questions concerning a request for waiver, contact the Ogden Submission Processing Center 801-620-7444 (not a toll-free call).