

MANAGEMENT DIRECTIVE

210.11
Number

COMMONWEALTH OF PENNSYLVANIA GOVERNOR'S OFFICE

Subject:

Acceptance of Imaged Documents

By Direction Of:


Robert A. Bittenbender, Secretary of the Budget

Date:

June 16, 1997


Thomas G. Paese, Secretary of Administration

The Internal Revenue Service issued a bulletin announcing a proposal to eliminate the requirement that taxpayers keep paper records and allow them to use electronic imaging systems instead. This directive establishes policy for the acceptance of imaged documents. A copy of the bulletin may be obtained by calling 783-5055 and referencing this directive.

1. PURPOSE. To establish policy for the use of imaged documents as acceptable business records.

2. SCOPE. This directive applies to all administrative agencies, departments, boards, and commissions (hereinafter referred to as "agencies") under the Governor's jurisdiction. Independent agencies are encouraged to follow this directive.

3. POLICY.

a. Agencies shall accept imaged documents from other agencies or any other person or entity obligated, required, or requested to provide such documents provided that the imaging system of such person or entity complies with the requirements of this directive.

b. Such imaging system shall comply with the IRS proposed procedures for recordkeeping with electronic imaging systems or any successor procedures and the provisions of the *Uniform Photographic Copies of Business Records as Evidence Act*, 42 Pa. C.S.A. § 6109(b).

4. DEFINITIONS.

a. **Imaged Document.** A duplicate of the original input/source document retrieved from the imaging system. Images must contain all the recorded information that appears on the original document and be able to serve the purpose for which the original was created or maintained.

b. **Imaging System.** An electronic technology used to prepare, record, image, index, store, preserve, retrieve, and reproduce books and records, the originals of which are in hardcopy format.

5. RESPONSIBILITIES. Agencies shall, in the event of a need for verification, ensure that the persons or entities imaging system is in compliance with this directive.

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DEPARTMENT: Internal Revenue Bulletin (IRB)

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HEADLINE: 96 TNT 17-8 IRS PROPOSES PROCEDURES FOR RECORDKEEPING WITH ELECTRONIC IMAGING SYSTEMS. (Section 6001--Required Records) (Notice 96-9, 1996-7 IRB 1) (Release Date: January 24, 1996) (Doc 96-2562 (6 pages))

CODE: Section 6001 -- Required Records

SUMMARY:

The Service has announced (Notice 96-9; IR-96-2) a proposal to eliminate the requirement that taxpayers keep paper records and allow them to use electronic imaging systems instead. A proposed revenue procedure sets forth requirements that imaging systems would have to meet to qualify as books and records under section 6001; the requirements are broadly written as operational capabilities, not technical specifications for hardware or software.

The proposed revenue procedure provides that an imaging system for maintaining books and records must create accurate and complete electronic images of hardcopy documents and index, store, preserve, retrieve, and reproduce imaged documents. Taxpayers must establish reasonable controls to ensure the integrity, accuracy, and reliability of the imaging system, including records of where, when, by whom, and on what equipment the image was produced, including the hardware and software used. Controls to prevent the unauthorized creation of, addition to, alteration of, deletion of, or deterioration of any imaged documents are also required.

An inspection and quality assurance program with regular evaluations of the imaging system and periodic checks of imaged documents is also required under the proposed revenue procedure. Also required are a retrieval system that includes an indexing system and the ability to reproduce a legible and readable hardcopy of an imaged document.

Taxpayers who use an imaging system must establish, maintain, and retain written procedures describing the system in detail, and any changes to the system must be documented. The written procedures must be available to the Service on request. The imaging system must provide support for the taxpayer's books and records, and the system and the taxpayer's books and records must be cross-referenced. Images produced by the system must be legible and readable on a video display terminal or on paper.

Imaged documents must be retained until no longer material to the administration of the internal revenue laws, and taxpayers must be able to retrieve and reproduce imaged documents at the time of an IRS examination. Furthermore, taxpayers must provide the IRS, at the time of an examination, with the resources necessary to promptly locate, retrieve, read, and reproduce on paper any imaged document. The requirement that an indexing system be maintained will be met if the indexing system is functionally comparable to a reasonable hardcopy filing system.

The proposed revenue procedure also provides that a district director may periodically test a taxpayer's imaging system, which can include evaluation and use of equipment and software and the procedures used by the taxpayer. Destruction of hardcopy documents by a taxpayer is permitted after the taxpayer (1) establishes that hardcopy documents are being imaged in compliance with all the provisions of the revenue procedure and (2) institutes procedures that ensure its continued compliance. A district director may issue a notice of inadequate records under reg. section 1.6001-1(d) if books and records are available only as imaged documents and the imaging system fails to meet the requirements of the revenue procedure.

The Service seeks public comments on the proposed revenue procedure. Comments should be submitted by March 28, 1996, to: Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044, Attn: CC:CORP:T:R (ITA Branch 4), Room 5228.

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Subject Area:

IRS Practice and Procedure

Cross Reference:

IR-96-2

Principal Cited Reference:

reg. section 1.6001-1(d)

TEXT:

IMAGING SYSTEMS TO RETAIN BOOKS AND RECORDS

Release Date: January 24, 1996

Communications Division

Part III - Administrative, Procedural, and Miscellaneous

Notice 96-9

This notice provides a proposed revenue procedure that, when finalized, will provide guidance to taxpayers on the use of an imaging system to satisfy the requirement of section 6001 of the Internal Revenue Code to maintain books and records.

The Service is proposing this revenue procedure as one means of complying with the requirements of section 6001 using electronic technology for records storage. The Service welcomes public comments on the proposed revenue procedure. Comments should be submitted by March 28, 1996, to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044, Attn: CC:CORP:T:R (ITA Branch 4), Room 5228.

Rev. Proc. 96 -
SECTION 1. PURPOSE

This revenue procedure provides guidance to taxpayers on using an imaging system (as defined in section 3.01 of this revenue procedure) to maintain books and records. Records kept using an imaging system that complies with the requirements of this revenue procedure will constitute records within the meaning of section 6001 of the Internal Revenue Code.

SECTION 2. BACKGROUND

.01 Section 6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, must keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever necessary, the Secretary may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax.

.02 Section 1.6001-1(a) of the Income Tax Regulations provides that, except for farmers and wage earners, any person subject to income tax or any person required to file a return of information with respect to income, must keep such books and records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

.03 Section 1.6001-1 (e) provides that the books or records required by section 6001 must be kept available at all times for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

SECTION 3. SCOPE

.01 This revenue procedure applies to all taxpayers that use an imaging system to maintain books and records. For purposes of this revenue procedure, an "imaging system" means an electronic technology used to prepare, record, image, index, store, preserve, retrieve, and reproduce books and records, the originals of which are in hardcopy format.

.02 A taxpayer's use of a service bureau or time-sharing service to provide the taxpayer with an imaging system for its books and records does not relieve the taxpayer of the responsibilities described in this revenue procedure.

.03 The requirements of this revenue procedure pertain to all matters under the jurisdiction of the Commissioner of Internal Revenue including, but not limited to, income, excise, employment, and estate and gift taxes, as well as employee plans and exempt organizations.

SECTION 4. IMAGING SYSTEM REQUIREMENTS

.01 General Requirements of an Imaging System

(1) An imaging system for maintaining books and records for purposes of section 6001 must create accurate and complete electronic images of hardcopy documents, and must index, store, preserve, retrieve, and reproduce imaged documents.

(2) An imaging system must include:

(a) reasonable controls to ensure the integrity, accuracy, and reliability of the imaging system, including a record of where, when, by whom, and on what equipment the image was produced, including the hardware and software that was used;

(b) reasonable controls to prevent the unauthorized creation of, addition to, alteration of, deletion of, or deterioration of any imaged document (for instance, one control could be the use of a non-erasable and non-rewritable media);

(c) an inspection and quality assurance program evidenced by regular evaluations of the imaging system including periodic checks of imaged documents;

(d) a retrieval system that includes an indexing system (within the meaning of section 4.02 of this revenue procedure); and

(e) The ability to reproduce a legible and readable hardcopy (within the meaning of section 4.01(5) of this revenue procedure) of an imaged document.

(3) For each imaging system used, the taxpayer must establish, maintain, and retain written procedures that describe in detail the complete imaging system. Any changes to the imaging system must be documented in writing. These written procedures and all modifications must be readily available to the Service upon request.

(4) The imaging system must provide support for the taxpayer's books and records (including books and records in an automated data processing system). For example, the imaging system and the taxpayer's books and records must be cross-referenced, so that all imaged documents that support an entry in the taxpayer's books and records can be automatically identified and retrieved for viewing or printing.

(5) All images reproduced by the imaging system must exhibit a high degree of legibility and readability when displayed on a video display terminal or reproduced on paper. The term "legibility" means the observer must be able to identify all letters and numerals positively and quickly to the exclusion of all the letters or numerals. The term "readability" means that the observer must be able to recognize a group of letters or numerals as words or complete numbers. The taxpayer must ensure that the reproduction process maintains the legibility and readability of

the image being reproduced. Taxpayers may use reasonable data compression or formatting technologies as part of their imaging system so long as the requirements of this revenue procedure are satisfied.

(6) The taxpayer must retain imaged documents until their contents are no longer material to the administration of the Internal Revenue Laws under section 1.6001-1(e).

(7) The taxpayer must be able to retrieve and reproduce imaged documents at the time of a Service examination. Reproduction includes the ability to print a legible and readable hardcopy of any imaged document.

(8) The taxpayer must provide the Service, at the time of an examination, or for the tests described in section 5 of this revenue procedure, with the resources (e.g., appropriate hardware and software, personnel, documentation, etc.) necessary for promptly locating, retrieving, reading, and reproducing on paper any imaged document.

(9) The taxpayer may use more than one imaging system. In that event, each system must meet the requirements of this revenue procedure. Imaged documents that are contained in a system with respect to which the taxpayer ceases to maintain the hardware and the software necessary to satisfy the conditions of this revenue procedure will be deemed destroyed by the taxpayer unless the existing imaged documents are converted to a format compatible with an imaging system that the taxpayer continues to maintain.

(10) An imaging system must not be subject, in whole or in part, to any agreement (such as a contract or license) that would limit or restrict the Service's access to and use of the imaging system on the taxpayer's premises (or such other place where the imaging system is maintained), including personnel, hardware, software, files, indexes and software documentation.

.02 Requirements of an Indexing System.

(1) For purposes of this revenue procedure, an indexing system is a system that permits the rapid identification and retrieval for viewing or reproducing of relevant documents maintained in an imaging system. For example, an indexing system might consist of assigning each imaged document a unique identification number and maintaining separate database that contains descriptions of each imaged document along with that document's identification number. In addition, any system used to maintain, organize, or coordinate multiple imaging systems is treated as an indexing system under this revenue procedure. The requirement to maintain an indexing system will be satisfied if the indexing system is functionally comparable to a reasonable hardcopy filing system. The requirement to maintain an indexing system does not require that a separate imaged document description database be maintained if comparable results can be achieved without a separate description database.

(2) Reasonable controls must be undertaken to protect the indexing system against the unauthorized creation of, addition to, alteration of, deletion of, or deterioration of any entries.

(3) Recommended Practices. The implementation of records management practices is a business decision that is solely within the discretion of the taxpayer. Records management

practices may include the labeling of documents, providing a secure storage environment, creating back-up copies, selecting an off-site storage location, retaining hardcopies of illegible documents or documents that cannot be accurately or completely imaged or reproduced under the imaging system, and testing to confirm records integrity.

SECTION 5. DISTRICT DIRECTOR TESTING

.01 The District Director may periodically initiate tests of a taxpayer's imaging system. These tests may include an evaluation (by actual use) of a taxpayer's equipment and software, as well as the procedures used by a taxpayer to prepare, record, image, index, store, preserve, retrieve, and reproduce imaged documents. In some instances, the District Director may choose to review the internal controls, security procedures, and documentation associated with the taxpayer's imaging system.

.02 The tests described in section 5.01 of this revenue procedure are not an "examination," "investigation," or "inspection" of the books and records within the meaning of section 7605(b), or a prior audit for purposes of section 530 of the Revenue Act of 1978, 1978-3 (Vol. 1) C.B. 119, because the evaluation is not directly related to the determination of the tax liability of a taxpayer for particular taxable period.

.03 The District Director must inform the taxpayer of the results of any periodic tests.

SECTION 6 COMPLIANCE

.01 A taxpayer's imaging system that meets the requirements of this revenue procedure will be treated as being in compliance with the recordkeeping requirements of section 6001 and the regulations thereunder.

.02 A taxpayer's imaging system that fails to meet the requirements of this revenue procedure may be treated as not being in compliance with the recordkeeping requirements of section 6001 and the regulations thereunder. See section 8 for applicable penalties. However, even though a taxpayer's imaging system fails to meet the requirements of this revenue procedure, the penalties described in section 8 may not apply if the taxpayer maintains its original books and records, or maintains its books and records in micrographic form in conformity with Rev. Proc. 81-46, 1981-2 C.B. 621.

SECTION 7. DESTRUCTION OF HARDCOPY DOCUMENTS

This revenue procedure permits the destruction of hardcopy documents after the taxpayer:

(1) has completed its own testing of the imaging system that establishes that hardcopy documents are being imaged in compliance with all the provisions of this revenue procedure; and

(2) has instituted procedures that ensure its continued compliance with all the provisions of this revenue procedure.

SECTION 8. PENALTIES

The District Director may issue a Notice of Inadequate Records pursuant to section 1.6001-1(d) if the taxpayer's books and records are available only as imaged documents and the taxpayer's imaging system fails to meet the requirements of this revenue procedure. Taxpayers whose imaging systems fail to meet the requirements of this revenue procedure may also be subject to applicable penalties under subtitle F of the Code including the section 6662(a) accuracy-related civil penalty and the section 7203 willful failure criminal penalty.

DRAFTING INFORMATION

The principal author of this notice is Celia Gabrysh of the Office of the Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Ms. Gabrysh on (202) 622-4940 (not a toll-free call).

