



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

October 21, 2002

Number: **200247046**
Release Date: 11/22/2002
UIL 6061.00-00, 6062.00-00

CC:PA:APJP:1
GL-134664-02 WLI#2

MEMORANDUM FOR M. K. MORTENSEN

Associate Area Counsel, Salt Lake City
Small Business/Self-Employed Division
CC:SB:5:SLC
Attn: S. Mark Barnes

FROM: James Gibbons, Branch 1
Administrative Provisions and Judicial Practice
CC:PA:APJP:B01

SUBJECT: Significant Service Center Advice
ADP/Disclosure

This responds to your memorandum to the Associate Chief Counsel (Procedure & Administration), requesting Significant Service Center Advice on signatures on Forms 8655.

Issue

Whether Service Centers should accept Forms 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers, that are signed by individuals or partners identified in the signature blocks as either the Controller, Comptroller; Manager (general, office, accounting), Accountant, Consultant, Bookkeeper, Coordinator CFO, CEO, HR Director, Executive Director of Corporation, Administrative Manager, Managing Agent of Exempt Organization, VP Operations, Managing Director, Controller of LLC, Executive Director, or the Controller of Partnership.

Conclusion

Service Centers have statutory and regulatory authority under I.R.C. §§ 6062 and 6063 and Treas. Reg. §§ 1.6062-1(c) and 1.6063-1(b) in assuming that an individual or partner signing the Form 8655 is authorized to sign the Form, and the Service Centers should accept signed Forms 8655 no matter what corporate or partnership title is used in connection with the signature block on the Form.

Overview

Form 8655 allows taxpayers to designate a reporting agent to file certain tax returns electronically or on magnetic tape. It also allows the reporting agent to receive copies of notices and to submit federal tax deposits as provided in I.R.C. §§ 3504, 6011, 6064

GL-134664-02 WLI#2

and 6103. Most companies which employ such reporting agents are large corporations, and the reporting agents may not be working with the principal officers of these corporations. In many of these corporations, the authority to sign returns is delegated to the payroll or tax departments, which in turn delegate the payroll authority to the reporting agents.

The Ogden Service Center is receiving a large volume of Forms 8655 signed by individuals with varying titles. The following are examples of titles used in signature blocks used on Form 8655, which have been received by the Ogden Service Center:

Controller; Comptroller; Manager (general, office, accounting);
Accountant; Consultant; Bookkeeper; Coordinator CFO, CEO, HR
Director; Executive Director of Corporation; Administrative Manager;
Managing Agent of Exempt Organization; VP Operations; Managing
Director; Controller of LLC; Executive Director; Controller of Partnership.

The Service Center is unable to determine who is and is not authorized to execute these Forms. You have asked our advice whether the Service Centers should accept Forms 8655 with signature blocks bearing these titles as being signed by an authorized individual or partner.

Discussion

Revenue Procedure 96-17, 1996-1 C.B. 633, provides the requirements for completing and submitting Form 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers (Authorization). Section 6.02 of the revenue procedure provides that an Authorization must be signed by:

- (1) the taxpayer or the taxpayer's authorized representative. If, however, the authorized representative is the holder of a power of attorney, the person executing the Authorization must be specifically authorized to sign tax returns on behalf of the taxpayer. If the taxpayer's authorized representative wishes to authorize an Agent to receive tax return notices, correspondence, deposit requirements, tax rates and transcripts from the Service, or discuss taxpayer account information with Service representatives, the authorized representative must be someone with authority both to receive, and to designate others to receive, tax return information (as defined by § 6103(b)(2)) of the taxpayer; or
- (2) a person who is duly authorized in accordance with § 31.6011(a)-7 of the regulations, provided that the authorizing language explicitly states that the person may both receive and designate recipients of the taxpayer's tax return information, if the form is used to designate the person as a recipient of tax return information.

GL-134664-02 WLI#2

Treas. Reg. § 31.6011(a)-7(c) deals with the execution of employment tax returns, and refers to Treas. Reg. § 31.6061-1.

Treas. Reg. § 31.6061-1 states:

Each return required under the regulations in this subpart shall, if signature is called for by the form or instructions relating to the return, be signed by (a) the individual ... (b) the president, vice president, or other principal officer, if the person required to make the return is a corporation; (c) a responsible and duly authorized member or officer having knowledge of its affairs, if the person required to make the return is a partnership or other unincorporated organization ... The return may be signed for the taxpayer by an agent who is duly authorized in accordance with § 31.6011(a)-7 to make such return.

I.R.C. § 6062 deals with the signing of a corporation return and provides:

[t]he return of a corporation with respect to income shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized so to act. In the case of a return made by a fiduciary pursuant to the provisions of section 6012(b)(3), such fiduciary shall sign the return. The fact that an individual's name is signed on the return shall be prima facie evidence that such individual is authorized to sign the return on behalf of the corporation.

Treas. Reg. § 1.6062-1(c) entitled "Evidence of authority to sign" provides:

[a]n individual's signature on a return, statement, or other document made by or for a corporation shall be prima facie evidence that such individual is authorized to sign such return, statement, or other document.

I.R.C. § 6063 deals with the signing of a partnership return and provides:

[t]he return of a partnership made under section 6031 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

Treas. Reg. § 1.6063-1(b) entitled "Evidence of authority to sign" provides:

GL-134664-02 WLI#2

[a] partner's signature on a return, statement, or other document made by or for a partnership shall be prima facie evidence that such partner is authorized to sign such return, statement, or other document.

The term 'prima facie evidence' is not defined within the Internal Revenue Code. However, there is copious case law explaining this term. For example, in *Gibson v. Zant*, 547 F. Supp. 1270 (M.D. Ga. 1982), *aff'd*, 705 F.2d 1543 (11th Cir. 1983), the court held:

The term *prima facie* evidence means [e]vidence good and sufficient on its face; such evidence as, in the judgment of the law, is sufficient to establish a given fact, ... and which if not rebutted or contradicted, will remain sufficient. Prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence.

Id. at 1276, emphasis in the original, citing BLACK'S LAW DICTIONARY 1071 (5th ed.); *American Security Council Education Foundation v. FCC*, 607 F.2d 438, 448, n.24 (D.C. Cir. 1979), *cert. denied*, 444 U.S. 1013 (1980) (prima facie evidence is evidence which is sufficient in law to sustain a finding in favor of a claim, but which may be contradicted). See also *Bankers & Farmer's Life Ins. Co. v. United States*, 79-1 USTC ¶ 9333 (W.D. Tex. 1979) (citing Treas. Reg. § 1.6022-1(c) for proposition that a corporation president was authorized to make binding statements on tax return); *United States v. Carrodegua*, 747 F.2d 1390 (11th Cir. 1985) (fact that defendant's name was signed to the tax return was prima facie evidence under I.R.C. § 6064 that he actually signed the return); *Gerstenberger v. Commissioner*, T.C. Memo. 2001-50 (taxpayer failed to overcome statutory presumption under I.R.C. § 6064 that he signed return).

Based on the I.R.C. §§ 6062 and 6063, and Treas. Reg. §§ 1.6062-1(c) and 1.6063-1(b), an individual's or partner's signature on the Form 8655 is prima facie evidence that such individual or partner is authorized to sign the Form. Thus, an individual's or partner's signature on a Form 8655 is evidence, if uncontradicted, sufficient to sustain a determination that the signer was authorized to execute the Form 8655. Consequently, the Service Centers have statutory and regulatory authority in assuming that the individual or partner signing the Form 8655 is authorized to sign the Form, no matter what corporate or partnership title is used in connection with the signature on the Form. Accordingly, the Service Centers should accept signed Forms 8655, no matter what corporate or partnership title is used in connection with the signature block on the Form.

If you have any questions, please contact this office at (202) 622-4910.