

Annual Information Return of Tip Income and Allocated Tips; (4) Form CT-1, *Employer's Annual Railroad Retirement Tax Return*; or (5) any variant of these forms (e.g., Form 941c, *Supporting Statement to Correct Information*; Form 941-SS, *Employer's Quarterly Federal Tax Return*).

SECTION 2. BACKGROUND

Section 6061(a) of the Internal Revenue Code generally provides that any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary.

Section 6061(b) authorizes the Secretary to develop procedures for the acceptance of signatures in digital or other electronic form. Section 6061(b)(1)(B) provides that the Secretary may provide for alternative methods of signing returns, declarations, statements, or other documents. Section 6061(b)(2) provides that, notwithstanding any other provision of law, any return, declaration, statement, or other document signed under an approved alternative method will be treated for all purposes as an original signature.

Section 31.6061-1 of the Regulations on Employment Taxes and Collection of Income Tax at Source provides that employment tax returns must be signed by:

- (a) the individual, if the person required to make the return is an 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; or
- (d) the fiduciary, if the person required to make the return is a trust or estate.

Returns may also be signed for the taxpayer by a duly authorized agent in accordance with section 31.6011(a)-7 of the regulations.

Section 31.6011(a)-7 provides that an employment tax return may be made by an agent in the name of the person required to make the return if an acceptable power of attorney is filed with the Service and if the return includes all taxes required to be

reported by such person on such return for the period covered by the return.

Section 301.6061-1(b) of the Regulations on Procedure and Administration provides that the Secretary may prescribe in forms, instructions, or other appropriate guidance, the method of signing any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations.

SECTION 3. SCOPE AND APPLICATION

Corporate officers or duly authorized agents may sign any of the following forms by facsimile (*i.e.*, by rubber stamp, mechanical device, or computer software program): (1) the Form 94X series; (2) Form 1042; (3) Form 8027; (4) Form CT-1; or (5) any variant of such designated form (e.g., Form 941c; Form 941-SS). Officers or agents using a facsimile means of signature are personally responsible for ensuring that their facsimile signature is affixed to returns. The person filing the form must retain a letter, signed by the officer or agent authorized to sign the return, declaring under penalties of perjury that the facsimile signature appearing on the form is the signature adopted by the officer or agent and that the facsimile signature was affixed to the form by the officer or agent or at his or her direction. The letter must list each return by name and identifying number. The letter should not be sent to the Internal Revenue Service unless specifically requested by the Service. The letter shall be maintained for at least four years after the due date of such tax as the return relates, or the date such tax is paid, whichever is later.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Rev. Rul. 82-29, 1982-1 C.B. 200, is modified to add the forms designated above to the list of forms for which facsimile signatures are accepted by the Service. Rev. Rul. 82-29 is clarified as to the definition of facsimile signature, and is modified to delete the requirement that each group of returns forwarded to the Internal Revenue Service be accompanied by a list of such returns and a letter, signed by

*26 CFR 31.6061-1: Signing of returns.
(Also: 26 CFR 31.6011(a)-7.)*

Rev. Proc. 2005-39

SECTION 1. PURPOSE

This revenue procedure sets out the circumstances under which facsimile signatures may be used on (1) any form within the Form 94X series (including, but not limited to, Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*; Form 941, *Employer's Quarterly Federal Tax Return*; Form 943, *Employer's Annual Federal Tax Return for Agricultural Employees*; and Form 945, *Annual Return of Withheld Federal Income Tax*); (2) Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*; (3) Form 8027, *Employer's*

the person authorized to sign the returns, adopting the signature on the returns.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for any of the designated forms filed with the Internal Revenue Service on or after July 1, 2005.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Richard Charles Grosenick of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue procedure, contact Richard Charles Grosenick at (202) 622-7950 (not a toll-free call).