



COMMISSIONER  
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
ATLANTA, GA 30308

November 18, 2014

Mr. Jeffrey A. Porter  
Chair, Tax Executive Committee  
American Institute of CPAs  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004

Dear Mr. Porter:

I am responding to your letter dated September 24, 2014, about our updated guidance on taxpayer electronic signatures and specific forms. We appreciate the Certified Public Accountant (CPA) community's continued engagement and support of electronic signatures within the tax industry.

Protecting the integrity of the tax administration system by securing taxpayer information and preventing refund fraud are among our highest priorities. For these reasons, we issued an electronic signature policy for the Form 8878, *IRS e-file Signature Authorization for Form 4868 and Form 2350* and Form 8879, *IRS e-file Signature Authorization* that outlines identity verification requirements and standards for use.

Electronic Return Originators (EROs) can choose the signature option for the Form 8878 or 8879, whichever is best for their clients' circumstances. The handwritten signature remains an option, and EROs are not required to change their current business practices. The EROs can have taxpayers continue to sign Form 8878 or 8879 with a handwritten signature and send the form to the ERO via U.S. mail, a private delivery service, fax, email, or an internet website.

The updated electronic signature policy provides another choice for EROs and provides efficiencies to signing the Form 8878 or 8879. This option reduces burden for taxpayers who must physically sign the authorization form either in their ERO's office, or mail it to their ERO. Electronic signatures also help reduce office expenses like paper, postage, and physical storage space. Allowing electronic signatures on the Form 8878 and 8879 is optional.

The Office of Management and Budget (OMB) issued a document on general standards and guidelines for the use of electronic signatures, "Use of Electronic Signatures in Federal Organization Transactions." We used this document as a resource in writing the new guidance. The General Services Administration (GSA) and the Federal Chief

Information Officers (CIO) Council developed this document in collaboration with the Department of Defense (DoD), Department of Justice (DOJ), and the National Institute of Standards and Technology (NIST). The document concludes that to create a valid and enforceable electronic signature, the following signing requirements are necessary (these are directly from the GAO document):

- A person (the signer) must use an acceptable electronic form of signature.
- A person must execute the electronic form of signature with the intent to sign the electronic record, for example, to indicate a person's approval of the information contained in the electronic record.
- The electronic form of signature must be attached to or associated with the electronic record being signed.
- There must be a way to identify and authenticate a particular person as the signer.
- There must be a way to preserve the integrity of the signed record.

To address the authentication requirements, the OMB document recognized by definition, "a signature must be the act of a specific signer." To prove the validity of an electronic signature in court, one must be able to prove "who" signed. Meeting this burden of proof requires establishing a link between an identified person and the signature – attribution and authentication.

The identity verification requirements for Forms 8878 and 8879 are outlined in two scenarios in Publication 1345, *Handbook for Authorized IRS e-File Providers of Individual Income Tax Returns*, where the ERO is interacting with the taxpayer either in-person or remotely. In a remote transaction, the new policy requires the taxpayer to successfully pass knowledge-based authentication (KBA) questions prior to signing the forms. The KBA questions are required since the simple presence of a strong password does not provide the necessary validation of a taxpayer electronically signing in a remote transaction scenario.

The KBAs have become standard for financial institutions to secure access to their customers' data. We have also identified KBAs as the best practice available to validate identity. We launched online products that use the KBA process to protect taxpayers interacting with us. In addition, the new guidance in Publication 1345 includes a requirement for software developers to transact KBAs only in a secure portal. You have raised a concern about tax return data being passed to third-party KBA vendors. When using KBAs for signing the Forms 8878 or 8879, the tax software program should not pass tax returns to the trusted third-party KBA vendors in order for the vendor to present the KBA questions. If the AICPA has specific knowledge of software programs using this practice to pass a tax return to a third-party KBA vendor, please forward this information to us for review.

Electronic signatures for remote transactions will not be an option for all taxpayers, such as those with limited public or credit records. We recommend these taxpayers use either the electronic signature in-person transaction or use a handwritten signature on Form 8878 or 8879.

When using an electronic signature in person, we advise the ERO that they should validate the taxpayer's identity for in-person transactions, but are not required to when a multi-year business relationship and the taxpayer's identity has been previously validated.

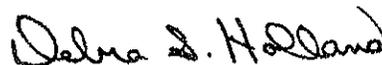
We rely on business best practices to help identify the best available solutions for electronic authentication at any given time. We appreciate the AICPA's thoughtful input on alternatives, and will consider them to help inform future exploration of alternative methods for identity verification. This includes the consideration of allowing EROs to use in-house databases for identifying known clients; however, finding the best way to identify unknown or new clients is challenging. Record checks remain the best option at this time.

Internal Revenue Code Section 7216, Disclosure or Use of Information by Preparers of Returns, prohibits the disclosure of any tax information for any purpose other than to prepare or assist in preparing a tax return. Section 7216 regarding disclosures of tax information does not apply to the electronic signature requirements to verify the identity of the taxpayer. Internal Revenue Code Section 6061(b) allows for guidance or procedures to accept signatures in digital or other electronic form; the use of knowledge based authentication for electronic signature purposes is authorized through Section 6061(b) and does not violate the provisions of Internal Revenue Code Section 7216 or its regulations.

Publication 1345 references the electronic signature policy including the identity verification requirements. We plan to issue an updated web version of Publication 1345 prior to the filing season to clarify information on the electronic signature guidance for Forms 8878 and 8879. We appreciate the AICPA's continued engagement in clarifying information we provide in our publications.

If you have any questions, please contact me or a member of your staff may contact Rob Bedoya, Director, e-File Services, at (240) 613-6203.

Sincerely,



Debra Holland