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This revenue procedure sets forth the requirements of a program under which a taxpayer or a Reporting Agent (“Agent” as defined in section 4.06 of this revenue procedure) may electronically file Form 941, Employer’s Quarterly Federal Tax Return (“Form 941 ELF Program”). The technical specifications for filing Form 941 electronically are published separately in the Technical Specifications Guide for the Electronic Filing System for Form 941, Employer’s Quarterly Federal Tax Return (“Specifications Guide”).

SECTION 2. BACKGROUND

.01 Section 31.6011(a)-8 of the Employment Taxes and Collection of Income Tax at Source Regulations provides that the Commissioner may authorize the use, at the option of the person required to make a return, of a composite return in lieu of any form specified in 26 C.F.R. Part 31 (Employment Taxes and Collection of Income Tax at Source), subject to the conditions, limitations, and special rules governing the preparation, execution, filing, and correction thereof as the Commissioner may deem appropriate.

.02 For purposes of this revenue procedure, an electronically filed Form 941 is a composite return consisting of the electronically transmitted Form 941 data and a Form 4996, Electronic/Magnetic Media Filing Transmittal for Wage and Withholding Tax Returns. Form 4996 must be received by the Internal Revenue Service before any electronically filed return is complete. An electronically filed return must contain the same information as a return filed completely on paper.

.03 Section 31.6011(a)-7 provides that each return, together with any prescribed copies or supporting data, must be filled in and disposed of in accordance with the forms, instructions, and regulations applicable thereto. The 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 Internal Revenue Service office with which such person is required to file returns and if such a return includes all taxes required to be reported by such person on such return. Form 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers, is an acceptable power of attorney, if prepared in accordance with the requirements set forth in Rev. Proc. 96-17, page 00, this Bulletin.

.04 Section 31.6061-1 provides that the return may be signed for the taxpayer by an agent who is fully authorized in accordance with § 31.6011(a)-7 to make such return. An Agent may sign the Form 941 on behalf of a taxpayer who has a valid Form 8655 on file with the Service.

.05 Section 31.6071(a)-1 generally provides that each return required to be made under § 31.6011(a)-1 for taxes imposed by the Federal Insurance Contributions Act, or required to be made under § 31.6011(a)-4 for withheld income taxes, must be filed on or before the last day of the first calendar month following the period for which it is made. However, under § 31.6071(a)-1 a return may be filed on or before the 10th day of the second calendar month following such period if timely deposits under § 6302(c) of the Internal Revenue Code and the regulations thereunder have been made in full payment of such taxes due for the period.

.06 The Service has conducted a test of the electronic filing of Forms 941 in Electronic Data Interchange (“EDI”) format developed by the American National Standards Institute.

.07 Procedures for the magnetic filing of Form 941 are in Rev. Proc. 96-18, page , this Bulletin, and the specifications are in Publication 1264, File Specifications, Processing Criteria and Record Layouts for Magnetic Tape Filing of Form 941, Employer’s Quarterly Federal Tax Return.

.08 The submission of federal tax deposit (“FTD”) information on magnetic tape is addressed in Rev. Proc. 89-48, 1989-2 C.B. 599. For taxpayers

26 CFR. 601.602: Tax forms and instructions. (Also Part I, Sections 3504, 6011, 6071; 31.3504-1, 31.6011(a)-7, 31.6011(a)-8, 31.6071(a)-1.)

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who are required to make FTDs by electronic funds transfer pursuant to § 6302(h), the submission of the FTD information along with the transfer of funds is addressed in Rev. Proc. 94-48, 1994-2 C.B. 694.

### SECTION 3. SCOPE

.01 The electronic filing of Forms 941 test referenced in section 2.06 of this revenue procedure is being replaced by this revenue procedure. The Service will now accept electronically filed Forms 941 in EDI format filed by an Electronic Filer (as defined in section 4.01 of this revenue procedure) that meets the requirements of this revenue procedure.

.02 An Electronic Filer in the Form 941 ELF Program must use asynchronous communications protocols to transmit electronic returns. See the Specifications Guide for further information regarding communications and formatting requirements.

.03 The Form 941 ELF Program accepts timely current returns that are zero balance or refund returns. The Form 941 ELF Program will not accept the electronic filing of the following returns:

- (1) balance due returns;
- (2) amended returns;
- (3) corrected returns;
- (4) returns containing attachments;

or

- (5) untimely returns.

A violation of any of these restrictions will cause a Processing Interruption (as defined in section 4.05 of this revenue procedure).

### SECTION 4. DEFINITIONS

.01 *Electronic Filer.* After acceptance in the Form 941 ELF Program, an Agent or taxpayer (*i.e.*, employer) that files Forms 941 electronically will be referred to as an "Electronic Filer."

.02 *Electronic Filing Help Desk.* The Electronic Filing Help Desk ("ELF Help Desk") is responsible for the administration of the Form 941 ELF Program. See section 21 of this revenue procedure for the address and telephone number of the ELF Help Desk.

.03 *Error Rate.* The "Error Rate" is the percentage of the total volume of tax data records that are identified by the Service's computer program as containing errors (as defined in the Specifications Guide).

.04 *Personal Identification Number.* A Personal Identification Number ("PIN") is a number assigned by the Service to a person named by the Electronic Filer who is authorized to sign Form 941.

.05 *Processing Interruption.* A "Processing Interruption" is an abnormal termination of a program run caused by the electronic data submitted by an Electronic Filer.

.06 *Reporting Agent.* A Reporting Agent ("Agent") is an accounting service, franchiser, bank, or other entity that complies with Rev. Proc. 96-17, and is authorized to prepare and file Form 941 electronically for a taxpayer.

.07 *Reporting Agent Authorization.* A Reporting Agent Authorization ("Authorization") allows a taxpayer to designate an Agent. The Authorization may be submitted on Form 8655, or any other instrument that complies with Rev. Proc. 96-17. An Authorization must be submitted for each taxpayer on the Reporting Agent's List.

.08 *Reporting Agent's List.* For purposes of the Form 941 ELF Program, a Reporting Agent's List ("Agent's List") identifies all taxpayers for whom an Agent will file Forms 941 electronically. A separate Form 8655 must be submitted for each taxpayer on the Agent's List. The Agent's List must contain each taxpayer's employer identification number ("EIN").

.09 *User identification/password.* The user identification/password ("userid/password") consists of an identification number (userid) issued by the Service and a confidential set of characters (password) that, when used in conjunction with each other, permit an Electronic Filer access to the Form 941 ELF system.

.10 *Validated Reporting Agent's List.* A Validated Reporting Agent's List ("Validated Agent's List") is the source of the EIN and name control to be used as an identification of each taxpayer by an Electronic Filer that is an Agent. A Validated Agent's List is a list of taxpayers and their EINs prepared by an Agent that is confirmed and assigned name controls by the Service. Once the Service returns a Validated Agent's List, the Agent must use it to fill in certain required fields (*e.g.*, the name control field) of the electronic transmission. See the Specifications Guide.

### SECTION 5. APPLICATION FOR THE FORM 941 ELF PROGRAM

.01 A prospective Electronic Filer desiring to file Form 941 electronically must first submit a Letter of Application ("Application") to participate in the Form 941 ELF Program.

.02 An Application must contain the following:

(1) the name, address, and EIN of the prospective Electronic Filer submitting the Application;

(2) the name, title, and telephone number of the person to contact regarding the Application;

(3) the first tax period for which the prospective Electronic Filer plans to file Forms 941 electronically;

(4) the estimated volume of returns the prospective Electronic Filer plans to file under the Form 941 ELF Program;

(5) the brand name of the software translation package and the EDI version to be used;

(6) a statement that the prospective Electronic Filer will keep a copy of all the Authorizations on file at the prospective Electronic Filer's principal place of business for examination by the Service upon request;

(7) a representation that the prospective Electronic Filer will comply with section 10 of this revenue procedure concerning responsibilities of an Electronic Filer;

(8) an acknowledgement of any prior suspension from any of the magnetic tape or electronic filing programs, if applicable;

(9) the signature of the prospective Electronic Filer's authorized signatory for filing federal tax returns for the prospective Electronic Filer; and

(10) the name and title of the person who is authorized to use the PIN for returns filed under the Form 941 ELF Program. See Exhibit 1 of this revenue procedure for a sample Application.

.03 In the case of an Electronic Filer that is an Agent, an Application must include two types of attachments:

(1) an Agent's List; and

(2) an Authorization (Form 8655) for each taxpayer included on the Agent's List fulfilling the following requirements:

(a) an Authorization executed after January 31, 1996, must be made

on Form 8655 (with a revision date of October 1995 or later) or its equivalent;

(b) except to the extent provided in section 5.03(2)(c) of this revenue procedure, an Authorization will remain in effect until a new Authorization is received by the Service.

(c) the Service will not accept Forms 941 filed electronically by an Agent after December 31, 1996, unless the Service has received an Authorization on Form 8655 (with a revision date of October 1995 or later) or its equivalent that expressly permits the Agent to file tax returns electronically on behalf of the taxpayer. The Service will accept Forms 941 filed electronically by an Agent prior to January 1, 1997, unless the Service has received an Authorization that expressly precludes the Agent from filing tax returns electronically on behalf of the taxpayer. See Rev. Proc. 96-17 for instructions on preparing Form 8655.

.04 To allow sufficient time for the approval process, the prospective Electronic Filer should submit the Application by the Application due dates preceding the quarter ending dates, as follows:

<i>Application Due Date</i>	<i>For Quarter Ending</i>
December 15 (prior year)	March 31
March 15	June 30
June 15	September 30
September 15	December 31

.05 The Application must be submitted to the Service at the address provided in section 21 of this revenue procedure.

.06 An Application *may not* include a request to file Forms 941, 940, and 945 on magnetic tape or make FTD payments and submit FTD information to the Service on magnetic tape or electronically. A prospective Electronic Filer interested in participating in such programs should submit an Application in accordance with the following revenue procedures: Rev. Proc. 96-18 (magnetic tape filing of Forms 941, 940, and 945); Rev. Proc. 94-48, 1994-2 C.B. 694 (electronic transmission of FTDs); and Rev. Proc. 89-48, 1989-2 C.B. 599 (magnetic tape filing of FTD information).

## SECTION 6. ACCEPTANCE IN THE FORM 941 ELF PROGRAM

.01 In the case of an Electronic Filer that is an Agent, within 30 days of receiving the Agent's Application, the Memphis Service Center will return a Validated Agent's List to the Agent. Failure to use the names and EINs provided on the Validated Agent's List may delay processing.

.02 A prospective Electronic Filer must contact the ELF Help Desk at the numbers listed in section 21 of this revenue procedure to notify the Service that the prospective Electronic Filer is ready to begin the testing process. In the case of an Electronic Filer that is an Agent, the Agent must contact the ELF Help Desk after receiving the Validated Agent's List.

.03 A prospective Electronic Filer must transmit an initial test electronic transmission of Form 941 ("test file") by the test file due dates preceding the corresponding quarter due dates, as follows:

<i>Initial Test File Due Date</i>	<i>For Quarter Ending</i>
April 10	March 31
July 10	June 30
October 10	September 30
January 10	December 31

Subsequent test files may be transmitted at any time *except* during months when returns are filed (*e.g.*, May, August, November and February), unless an exception is granted by the ELF Help Desk. Transmission of a test file does not constitute the filing of a tax return. See Specifications Guide for specific testing procedures.

.04 After evaluating the test file, the Service will notify a prospective Electronic Filer in writing of approval or denial of electronic filing privileges. An approval remains in effect unless the Electronic Filer:

- (1) fails to comply with the Authorization requirements of section 5.03(2) of this revenue procedure; or
- (2) is suspended from the Form 941 ELF Program. See section 16 of this revenue procedure for effect of suspension.

.05 If an Application is approved, the Service will send the Electronic Filer the following two documents:

- (1) a notification of approval that will contain the userid/password, and

information and procedures regarding signing onto the system for filing electronic Forms 941; and

- (2) a PIN that may only be used by the authorized employee named in the Application.

.06 Upon receipt of each document referenced in section 6.05 of this revenue procedure, the Electronic Filer must return the following documents to the Service:

- (1) an acknowledgement signed by each employee recipient of the userid/password indicating possession of, and responsibility for, the userid/password; and

- (2) an acknowledgement signed by the Electronic Filer's authorized signatory indicating possession of, and responsibility for, the PIN.

See Exhibit 2 of this revenue procedure for a sample userid/password and PIN receipt.

.07 The Service will activate the PIN and the userid/password upon receiving the Electronic Filer's acknowledgements of the receipt of the two documents referenced in section 6.05 of this revenue procedure.

.08 If a prospective Electronic Filer's test file fails to meet the evaluation criteria, the prospective Electronic Filer must, within 15 days of the Service's notification of the failure, transmit a new test file or contact the ELF Help Desk to make other arrangements.

.09 If a prospective Electronic Filer is denied, or does not receive, approval for participating in the Form 941 ELF Program before the end of the tax quarter for which the Forms 941 will be filed, the prospective Electronic Filer should file the returns on paper Forms 941 (or on magnetic tape if the prospective Electronic Filer meets the requirements of Rev. Proc. 96-18).

.10 If an Electronic Filer is denied acceptance into the Form 941 ELF Program, the Electronic Filer may reapply for a subsequent tax quarter by resubmitting an Application and test file in accordance with sections 5 and 6 of this revenue procedure.

## SECTION 7. ADDING AND DELETING TAXPAYERS BY A REPORTING AGENT

.01 After an Electronic Filer that is an Agent is notified that the application for electronic filing of Forms 941 has

been approved, the Agent may want to add and delete taxpayers from the Form 941 ELF Program.

.02 To add taxpayers, the Agent must submit the added names and EINs (Add List) and an Authorization for each taxpayer added to the Form 941 ELF Program. The Service must validate the Add List and return it to the Agent before the Agent can electronically file returns for these taxpayers. The Service will generally validate and mail the Add List to the Agent within 10 business days of receiving the Add List.

.03 To delete taxpayers, the Agent must submit a list of those taxpayers to be deleted (Delete List) and, if known, a short statement indicating which taxpayers will not remain in business.

## SECTION 8. ELECTRONIC FILING OF FORM 941

.01 An Electronic Filer must ensure that an electronic return is filed on or before the due date of the return. The due dates prescribed for filing paper Forms 941 with the Service also apply to returns filed under the Form 941 ELF Program. Forms 941 are due on or before the last day of the first calendar month following the period for which the return is made. However, a return for which all tax deposits were made when due for the quarter may be filed by the 10th day of the month following the due date. In no case may one electronic transmission include returns with more than one due date.

.02 An Electronic Filer must complete Form 4996 and submit it within one work day after the Electronic Filer receives acknowledgement that the electronic portion of the taxpayer's return has been accepted for processing.

.03 An Electronic Filer that is an Agent must also submit with the Form 4996 a list of taxpayers' names and addresses (address is optional) in EIN sequence whose returns are on the electronic transmission (Control List). The taxpayers on the Control List should be only those on the Validated Agent's List returned to the Agent.

.04 A tax return is not considered filed until the electronic portion of the tax return has been acknowledged as accepted for processing and a completed and signed Form 4996 has been received by the Service. If the Form 4996 is missing, incomplete, or un-

signed, the electronic transmission does not constitute a tax return. However, if the electronic portion of a return is transmitted on or before the due date and the Electronic Filer complies with section 8.02 (sections 8.02 and 8.03 for Agents) of this revenue procedure, the return will be deemed timely filed. If the electronic portion of the return is initially transmitted on or shortly before the return due date and is ultimately rejected, but the Electronic Filer complies with section 8.05 of this revenue procedure, the return will be deemed timely filed.

.05 An electronic transmission that causes a Processing Interruption or that has an Error Rate exceeding 5 percent will not be accepted, and the Electronic Filer will be asked to resubmit the return(s). If the electronic transmission is acknowledged as rejected by the Service, the Electronic Filer should correct the error(s) and retransmit the return(s) on the same calendar day. If the Electronic Filer chooses not to have the previously rejected return retransmitted, or if the return still cannot be accepted for processing, a paper Form 941 (or a Form 941 on magnetic tape if the Electronic Filer meets the requirements of Rev. Proc. 96-18) must be filed by the later of: (1) the due date of the return; or (2) within five calendar days of the rejection or notice that the return cannot be retransmitted, with an explanation of why the return is being filed after the due date. For the penalty for failure to file a timely return, see section 18 of this revenue procedure.

.06 If the Service does not receive Form 4996 within 3 business days of the electronic transmission, the Service will contact the Electronic Filer. Unless otherwise advised within 15 days of the electronic transmission, an Electronic Filer may consider the returns included in that transmission timely filed if the postmark date on the envelope submitting the Form 4996 is on or before the due date of the returns, and the Electronic Filer has received acknowledgement that the electronic portion of the taxpayers' returns have been accepted by the Service for processing.

## SECTION 9. ADJUSTMENTS TO FORM 941

Forms 941 filed under the Form 941 ELF Program must not contain adjustments other than adjustments resulting from rounding fractions of cents or

from third-party sick pay for which an employer is not responsible. Returns with other adjustments must be filed on magnetic tape or on paper.

## SECTION 10. RESPONSIBILITIES OF AN ELECTRONIC FILER

.01 To ensure that complete returns are accurately and efficiently filed, an Electronic Filer must comply with the Specifications Guide.

.02 The Electronic Filer must retain the following material for 4 years after the due date of the return (or if the return is filed late, for a period of 4 years from the filing date), unless otherwise notified by the Service:

- (1) a complete copy of the electronic portion of the return;
- (2) a copy of the signed Form 4996;
- (3) a copy of the Service's acknowledgement of receipt of the return; and
- (4) a copy of each Authorization.

.03 An Electronic Filer that is an Agent must:

- (1) provide the taxpayer with a paper copy of the electronic information that was sent to the Service. This information may be provided on a replica of an official form or on an unofficial form. However, data entries on an unofficial form must refer to the line numbers on an official form;
- (2) provide the taxpayer with a copy of the Form 4996;
- (3) advise the taxpayer to retain a complete copy of the return (a paper copy of both the electronic information and Form 4996) and any supporting material;
- (4) inform the taxpayer of the service center that processes the taxpayer's returns;
- (5) advise the taxpayer that an amended return, if needed, must be filed as a paper return and mailed to the Memphis Service Center. See section 9 of this revenue procedure for adjustments to Forms 941; and

(6) provide, upon request, the taxpayer with the date the taxpayer's return was postmarked and with the date of the Service's acknowledgment of receipt of the electronic portion of the taxpayer's return.

.04 An Electronic Filer must comply with the following PIN and userid/password requirements:

(1) an authorized employee of the Electronic Filer must submit a signed receipt acknowledging receipt of the userid/password, and accepting the associated responsibilities. See Exhibit 2 of this revenue procedure for a sample userid/password receipt;

(2) after submitting the userid/password receipt to the Service and receiving the PIN, the authorized signatory for the Electronic Filer must submit a signed receipt acknowledging receipt of the PIN, and accepting the associated responsibilities. See Exhibit 2 of this revenue procedure for a sample PIN receipt;

(3) the Electronic Filer is responsible for ensuring that the PIN remains the confidential information of the Electronic Filer's authorized signatory. If the Electronic Filer suspects that the confidentiality of the PIN and/or password has been compromised, the Electronic Filer must contact the ELF Help Desk within 24 hours for instructions on how to proceed. See section 21 of this revenue procedure for Service contact information; and

(4) if the authorized signatory for an Electronic Filer changes, the Electronic Filer must notify the Service of the name and title of the new authorized signatory for the electronically filed Form 941 and apply for a new PIN no later than 15 days before the filing of another return. After such notification, the Service will deactivate the current PIN, and issue a new PIN to the new authorized signatory. The authorized signatory must submit a PIN receipt as specified in section 10.04(2) of the revenue procedure in order to activate the PIN.

## SECTION 11. ALTERNATIVE FILING PROCEDURES

.01 Procedures for the filing of Form 941 on magnetic tape are in Rev. Proc. 96-18 and the specifications are in Publication 1264.

.02 An Electronic Filer that is an Agent may use a Form 941 ELF Program Authorization to file a paper Form 941 under the Form 941 ELF Program only under the following circumstances:

(1) the late receipt of payroll information from a taxpayer that would jeopardize the timely submission of the taxpayer's return;

(2) the amendment of returns filed under the Form 941 ELF Program;

(3) the rejection of an electronic transmission that would jeopardize the timely submission of the taxpayer's return; or

(4) a request by the Service for an Electronic Filer participating in the Form 941 ELF Program to file paper Forms 941 instead of electronically filed Forms 941.

.03 An Agent without a valid power of attorney may prepare a paper Form 941 for the taxpayer's signature. A taxpayer's authorized representative that is not an Agent participating in the Form 941 ELF Program (including a suspended Agent) must have a valid power of attorney (usually a Form 2848, Power of Attorney and Declaration of Representative) that authorizes an Agent to sign and file a paper Form 941 on behalf of a taxpayer.

.04 Each paper Form 941 must be signed by the taxpayer, the taxpayer's authorized representative, or a participating Agent, to the extent permitted under section 11.02 of this revenue procedure.

## SECTION 12. REVISION OF COMPUTER SPECIFICATIONS BY THE SERVICE

.01 If the Specifications Guide is revised, the Service, if necessary, will advise all current Electronic Filers to submit test files prior to filing under the new specifications. Failure to submit a test file may later result in a Processing Interruption or an Error Rate exceeding 5 percent on returns filed electronically for which a Electronic Filer may receive a notice of suspension. See section 14 of this revenue procedure concerning the reasons for suspension of electronic filing privileges.

.02 If an Electronic Filer is unable to comply with the changes in specifications, the Electronic Filer must contact the ELF Help Desk for further instructions. See section 21 of this revenue procedure.

## SECTION 13. ADVERTISING STANDARDS FOR A REPORTING AGENT

.01 In the case of an Electronic Filer that is an Agent, the following advertising standards apply. An Electronic Filer must:

(1) comply with the advertising and solicitation provisions of 31 C.F.R.

Part 10 (Treasury Department Circular No. 230). This circular prohibits the use or participation in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive, or unfair statement or claim. In addition, advertising must not imply a special relationship with the Service, Financial Management Service (FMS), or the Treasury Department;

(2) adhere to all the relevant federal, state, and local consumer protection laws;

(3) not use the Service's name, "Internal Revenue Service" or "IRS", within a firm's name;

(4) not use improper or misleading advertising in relation to the Form 941 ELF Program;

(5) not carry the FMS, IRS, or other Treasury Seals on its advertising material;

(6) clearly state the names of all cooperating parties if advertising for a cooperative electronic return project (public/private sector);

(7) pre-record radio or television advertisement and keep a copy of such advertisement for a period of at least 36 months from the date of the last transmission or use; and

(8) retain a copy of any actual direct mailing or fax communications, along with a list or other description of persons to whom the communication was mailed, faxed, or otherwise distributed for a period of at least 36 months from the date of the last mailing, fax, or distribution.

.02 Acceptance to participate in the Form 941 ELF Program does not imply endorsement by the Service or FMS of the software or quality of services provided.

## SECTION 14. REASONS FOR SUSPENSION

.01 The Service reserves the right to suspend an Electronic Filer from the Form 941 ELF Program for the following reasons (this list is not all-inclusive):

(1) failing to submit electronic tax returns according to the Specifications Guide as provided in section 10.01 of this revenue procedure;

(2) failing to retain the required records for the period specified in section 10.02;

(3) repeatedly submitting tax returns that have an Error Rate exceeding

5 percent or that cause a Processing Interruption; (4) submitting tax returns that have an Error Rate exceeding 5 percent or that cause a Processing Interruption after failing to submit the test file required by section 12; or

(5) submitting tax returns that are not in full-paid status.

.02 The Service reserves the right to suspend an Electronic Filer that is an Agent from the Form 941 ELF Program for the following additional reasons (this list is not all-inclusive):

(1) failing to provide to the taxpayer the records, information, or advice required by section 10.03;

(2) submitting tax returns for which the Service did not receive Authorizations;

(3) failing to abide by the advertising standards in section 13; or

(4) significant complaints about an Agent's performance in the Form 941 ELF Program.

.03 If the Chief, Customer Service and Electronic Filing Branch ("Branch Chief") informs an Electronic Filer that a certain action is a reason for suspension and the action continues, the service center director may send the Electronic Filer a notice proposing suspension of the Electronic Filer. However, a notice proposing suspension may be sent without a warning if the Electronic Filer's action indicates an intentional disregard of rules. A notice proposing suspension will describe the reason(s) for the proposed suspension, and indicate the length of the suspension and the conditions that need to be met before the suspension will terminate.

.04 An Electronic Filer that is an Agent has an obligation to notify taxpayers filing through the Agent if and when such Agent is suspended from filing under the Form 941 ELF Program as provided in section 16.02 of this revenue procedure. The Service reserves the right to extend the period of suspension of any Agent that fails to comply with this requirement.

## SECTION 15. ADMINISTRATIVE REVIEW PROCESS FOR PROPOSED SUSPENSION

.01 An Electronic Filer that receives a notice proposing suspension may request an administrative review prior to the proposed suspension taking effect.

.02 The request for an administrative review must be in writing and contain detailed reasons, with supporting documentation, for withdrawal of the proposed suspension.

.03 The written request for an administrative review and a copy of the notice proposing suspension must be delivered to the Branch Chief within 30 calendar days of the date on the notice proposing suspension. The Branch Chief will forward the written request to the National Program Analyst for Electronic Filing of Business Returns ("National Coordinator") if the service center director continues to believe that suspension is warranted.

.04 After consideration of the written request for an administrative review, the National Coordinator will either issue a suspension letter or notify the Electronic Filer in writing that the proposed suspension is withdrawn.

.05 If an Electronic Filer receives a suspension letter, the Branch Chief's subsequent determination of whether a reason for suspension has been corrected is not subject to review or appeal.

.06 If an Electronic Filer does not timely submit a written request for an administrative review, the service center director will issue a suspension letter.

.07 Failure to submit a written request for an administrative review within the 30-day period described in section 15.03 of this revenue procedure irrevocably terminates the Electronic Filer's right to an administrative review of the proposed suspension.

## SECTION 16. EFFECT OF SUSPENSION

.01 An Electronic Filer's suspension will continue for the length of time specified in the suspension letter, or until the conditions for terminating the suspension have been met, whichever is later.

.02 In the case of an Electronic Filer that is an Agent, the following additional rules apply:

(1) if a Form 941 is due (without regard to extensions) within 60 days from the date on the suspension letter, the Agent may file the Form 941 under the Form 941 ELF Program;

(2) if a Form 941 is due (without regard to extensions) more than 60 days from the date on the suspension

letter, the Agent may not file the Form 941 under the Form 941 ELF Program;

(3) if a suspended Agent has a power of attorney from a taxpayer that authorizes the Agent to sign and file Form 941, the suspended Agent will be able to sign and file paper Form 941 for the taxpayer. See section 11.03 of this revenue procedure. Form 8655 does not authorize the filing of paper Forms 941 outside of the Form 941 ELF Program; and

(4) an Agent must provide written notification of a suspension to a taxpayer at least 45 days before the due date of the taxpayer's first return affected by the suspension. Such notification must be provided even though the Agent may believe that the Agent will be able to meet the conditions for terminating the suspension before the due date.

.03 An Electronic Filer will be able to file returns under the Form 941 ELF Program from which the Electronic Filer was suspended, without reapplying to the Form 941 ELF Program, after:

(1) the stated suspension period expires; and

(2) the reason(s) for suspension are corrected.

## SECTION 17. APPEAL OF SUSPENSION

.01 If an Electronic Filer receives a suspension letter from the National Coordinator, the Electronic Filer is entitled to appeal, by written protest, to the National Director of Appeals. The written protest must be sent to the National Coordinator, who will forward it to the National Director of Appeals. During the appeals process, the suspension remains in effect.

.02 The written protest must be received by the National Coordinator within 30 calendar days of the date of the suspension letter. The written protest must contain detailed reasons, with supporting documentation, for withdrawal of the suspension.

.03 Within 15 calendar days of receipt of a written protest, the National Coordinator will forward the file on the Electronic Filer and the material described in section 17.02 of this revenue procedure to the National Director of Appeals.

.04 Failure to appeal within the 30-day period described in section 17.02

of this revenue procedure irrevocably terminates the Electronic Filer's right to appeal the suspension.

#### SECTION 18. PENALTY FOR A FAILURE TO TIMELY FILE A RETURN

Section 6651(a)(1) provides that for each month (or part thereof) a return is not filed when required (determined with regard to any extensions of time for filing), there is a penalty of 5 percent of the unpaid tax not to exceed 25 percent, absent reasonable cause. A taxpayer does not establish reasonable cause simply by engaging a competent Agent to file the taxpayer's return. However, if the Agent has reasonable cause under § 6651(a) for failing to timely file the taxpayer's return, the taxpayer will also have reasonable cause for that failure, and the failure-to-file penalty will be abated.

#### SECTION 19. FILING FORMS W-4 WITH THE INTERNAL REVENUE SERVICE

.01 An employer is required to send to the Service by the due date of the quarterly return copies of all Forms W-4, Employee's Withholding Allowance Certificates, received during the quarter from employees still employed at the end of the quarter who claim:

(1) more than 10 withholding exemptions; or

(2) exempt status and are expecting to earn more than \$200 a week. Employers should not send other Forms W-4 unless notified by the Service in writing to do so.

.02 If an employer's Form 941 is filed under the Form 941 ELF Program, copies of paper Forms W-4 along with a cover letter providing the employer's name, address, EIN, and the number of Forms W-4 included must be sent to the service center that would have received the employer's paper Form 941. See Publication 15, Circular E, Employer's Tax Guide, for more information on sending Forms W-4 to the Service.

.03 Forms W-4 information may also be filed on magnetic media (5¼ inch diskettes, 3½ inch diskettes, or magnetic tape). See Publication 1245, Specifications for Filing Form W-4, Employee's Withholding Allowance Certificate, on Magnetic Tape, and 5¼- and 3½-Inch Magnetic Diskettes, for more information concerning magnetic media filing of Forms W-4.

#### SECTION 20. FILING FORMS W-2 (COPY A) WITH THE SOCIAL SECURITY ADMINISTRATION

Forms W-2, Wage and Tax State-

ments, must be filed directly with the Social Security Administration on magnetic media or paper. For information on magnetic media reporting of Form W-2, contact the Social Security Administration's Regional Magnetic Media Coordinators.

#### SECTION 21. INTERNAL REVENUE SERVICE CONTACT

All questions regarding this revenue procedure should be directed to the following address and telephone number:

Internal Revenue Service  
Memphis Service Center  
Electronic Filing Help Desk  
P.O. Box 30309 AMF  
Memphis, TN 38130  
Attention: ELF Unit Stop 37

The telephone number of this office is (901) 546-2690 extension 1009 (not a toll-free number).

#### SECTION 22. EFFECTIVE DATE

This revenue procedure is effective for returns due after December 31, 1995 (without regard to extensions).

EXHIBIT 1

*Letter of Application*

AAA Payroll, Inc  
111 Main St.  
Columbus, NY 11111  
EIN XX-XXXXXXX

[Date]

Internal Revenue Service  
Memphis Service Center  
Electronic Filing Help Desk  
P.O. Box 30309 AMF  
Memphis, TN 38130  
Attention: ELF Unit Stop 37

To whom it may concern:

This letter is an application to participate in the electronic filing program for Forms 941 (“Form 941 ELF Program”).

I understand and agree to the following points which are prerequisites for participation in the Form 941 ELF Program:

1. I will keep copies of the Form 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers (or its equivalent) on file at my principal place of business for a period no less than required under the period of limitation for assessment for the last return filed under its authority. I will provide these Authorizations for examination by the Service upon request.

2. I will abide by the recordkeeping requirements as set forth in section 10.02 of Rev. Proc. 96-19.

3. I will provide my clients documentation of filed returns as set forth in section 10.03 of Rev. Proc. 96-19.

4. I will comply with all electronic security restrictions as set forth in section 10.04 of Rev. Proc. 96-19 and the Technical Specifications Guide for the Electronic Filing System for Form 941, Employer’s Quarterly Federal Tax Return.

[Name, title] of [firm name] is the individual to contact concerning the userid/password. [Name] can be reached at [telephone number]. [Name] has read and understands the rules that apply to the use of the userid/password.

[Name, title] of [firm name and address] is the designated recipient of the Personal Identification Number (PIN). [Name] is authorized to administer and use the PIN for the returns being submitted under the Form 941 ELF Program.

I will begin submitting returns using the Form 941 ELF Program for returns due XX quarter 19XX. I estimate that I will be submitting XXX number of returns.

I expect to use [software brand name] translation software and EDI release version [number] for electronic transmissions.

I have included with this application a Reporting Agent’s List and an Authorization for each taxpayer on my Reporting Agent’s List.

Please contact [name, title & telephone #] to discuss this letter of application.

[Signature of Electronic Filer’s  
authorized signatory]



## Exhibit 2

### PIN/Userid/Password Receipt

I, *[insert “name of authorized signatory, title, firm name and address”]* acknowledge receipt of the *[insert “userid/password” or “PIN” as appropriate]* for the Form 941 ELF Program.

I understand that I am bound by the requirements and responsibilities regarding *[insert userid/password, or “PIN” as appropriate]* as set forth in Rev. Proc. 96-19 and the Specifications Guide for Electronic Filers of Employer's Quarterly Federal Tax Returns.

For userid/password: [Signature of employee recipient]

For PIN: [Signature of Electronic Filer's authorized signatory]

NOTE: Separate receipts are required for a user identification/password and PIN.