

Part III - Administrative, Procedural, and Miscellaneous

Guidance Regarding Obtaining and Renewing PTINs and Continuing Education Requirements for Registered Tax Return Preparers

Notice 2011-80

Purpose

This Notice provides guidance to individuals who have or will obtain a preparer tax identification number (PTIN), including a provisional PTIN, or who become registered tax return preparers. Section 1 of this Notice provides guidance regarding the last date that provisional PTINs may be obtained, provides that provisional PTINs must be continually maintained, and clarifies that, beginning in 2012, provisional PTIN holders must complete continuing education requirements. Section 2 of this Notice provides guidance regarding PTIN (including provisional PTIN) renewal, section 3 provides that certain individuals must be fingerprinted and pass a suitability check prior to obtaining a PTIN, and section 4 provides guidance regarding continuing education requirements for registered tax return preparers.

Background

The Treasury Department and the IRS are implementing the recommendations contained in Publication 4832, "Return Preparer Review." As part of this implementation, the Treasury Department and the IRS have published final regulations (TD 9527, 76 FR 32302) that include registered tax return preparers as practitioners

under 31 CFR Part 10 (reprinted as Treasury Department Circular 230).

In addition, the Treasury Department and the IRS published final regulations under section 6109 (TD 9501, 75 FR 60309) providing that after December 31, 2010, all individuals who prepare all or substantially all of a tax return or claim for refund for compensation must have a PTIN that was applied for and received at the time and in the manner prescribed by the IRS and must use that PTIN as their sole identifying number. The Treasury Department and the IRS also published final regulations (TD 9503, 75 FR 60316) requiring individuals to pay a \$50 user fee to the IRS, plus any IRS-approved fee charged by the third-party vendor, to initially obtain and to annually renew a PTIN. Under the section 6109 regulations, only attorneys, certified public accountants, enrolled agents, registered tax return preparers, and individuals authorized under § 1.6109-2(h) are eligible to receive a PTIN.

In section 1 of Notice 2011-6, 2011-3 IRB 315, the IRS identified two additional groups of individuals who are eligible under § 1.6109-2(h) to obtain a PTIN: (1) specified individuals who are supervised by the attorney, certified public accountant, enrolled agent, enrolled retirement plan agent, or enrolled actuary who signs the tax return or claim for refund prepared by the individual and (2) individuals who certify they do not prepare or assist in the preparation of all or substantially all of any tax return or claim for refund covered by a competency examination (Form 1040 series tax returns and accompanying schedules until further notice). Section 2 of Notice 2011-6 further provides that individuals who are not attorneys, certified public accountants, or enrolled agents may obtain a provisional PTIN before the date that the registered tax return

preparer competency examination is first offered (initial test offering date).

For purposes of this Notice, individuals who obtain a provisional PTIN under the terms of section 2 of Notice 2011-6 are “provisional PTIN holders.” Individuals who obtain a PTIN under section 1 of Notice 2011-6 are not provisional PTIN holders.

Section 1: Provisional PTINs

a. Deadline To Obtain a Provisional PTIN

In Notice 2011-6, the IRS announced that it did not expect to offer the registered tax return preparer competency examination before mid-2011 and, once the examination was offered, the IRS would no longer issue provisional PTINs. The IRS currently does not expect to offer the competency examination before Fall 2011. The IRS, therefore, will continue to issue provisional PTINs until at least April 18, 2012, to allow individuals sufficient time to prepare for the competency examination and to prevent disruption of the 2012 filing season. The IRS will announce the last date it will issue provisional PTINs in a news release issued at least 30 days before that date. The IRS will issue provisional PTINs until the designated date regardless of the initial test offering date.

The provisions of section 2 of Notice 2011-6 will continue to apply to provisional PTIN holders regardless of the date the provisional PTIN is obtained. Thus, all provisional PTIN holders must comply with both section 2 of Notice 2011-6 and the applicable provisions of this Notice.

b. Provisional PTINs Must be Continually Maintained

Individuals who obtain a provisional PTIN may retain the provisional PTIN until

December 31, 2013. Individuals who have a provisional PTIN during this period, however, must annually renew and continually maintain the provisional PTIN to retain the ability to prepare tax returns or claims for refund for compensation until December 31, 2013. If an individual allows the provisional PTIN to expire, the individual must become a registered tax return preparer or other authorized individual under § 1.6109-2 to be eligible to obtain a PTIN and to prepare all or substantially all of a tax return or claim for refund for compensation. See section 2 of this Notice for the requirement to renew provisional PTINs on a calendar year basis.

c. Continuing Education Requirements for Provisional PTIN Holders

Section 10.6(d)(4) of Circular 230 requires registered tax return preparers to renew their status as a registered tax return preparer as prescribed by the IRS in forms, instructions, or other appropriate guidance. As a condition of renewal, section 10.6(e) provides that registered tax return preparers must complete minimum continuing education requirements. Section 2.04 of Notice 2011-6 provides that tax return preparers who obtain a provisional PTIN before October 1, 2011 are not required to complete continuing education requirements during 2011.

Individuals who obtain a provisional PTIN in accordance with Notice 2011-6 or this Notice are not registered tax return preparers and may not represent that they are registered tax return preparers or have passed the competency examination. Notice 2011-45, 2011-25 IRB 886. Nevertheless, the IRS has decided that these individuals must satisfy the same minimum continuing education requirements that registered tax return preparers are required to complete. Details regarding these requirements are

more fully discussed in section 4 of this Notice.

Provisional PTIN holders who do not satisfy the minimum continuing education requirements will not be allowed to renew their provisional PTIN. Individuals whose provisional PTINs are not renewed will be required to pass the registered tax return preparer competency examination or otherwise become eligible to obtain a PTIN before preparing all or substantially all of a tax return or claim for refund for compensation.

Section 2: PTIN Renewed Annually on a Calendar Year Basis

Section 1.6109-2(e) provides that the IRS may designate an expiration date for any PTIN or other prescribed identifying number. The regulation further provides that the IRS may prescribe the time and manner for renewing a PTIN or other prescribed identifying number in forms, instructions, or other appropriate guidance.

The IRS has decided that all PTINs (including provisional PTINs) must be renewed on a calendar year basis using the IRS's online PTIN application available at www.irs.gov or paper application, Form W-12, *IRS Paid Preparer Tax Identification Number (PTIN) Application*. Individuals who hold valid PTINs must renew their PTIN and pay the required fee (currently \$64.25, \$50.00 IRS user fee plus \$14.25 vendor fee) after October 15th and before January 1st each year. PTINs renewed during this period will be valid from January 1st through December 31st of the following calendar year. PTINs obtained or renewed during a calendar year will expire on December 31st of that year.

Individuals obtaining a new PTIN after October 15th will have the option of receiving a PTIN for the current calendar year or the following calendar year.

Individuals who choose to receive a PTIN for the current calendar year will be required to renew their PTIN before January 1st to prepare returns during the following calendar year. Individuals who choose to receive a PTIN for the following calendar year may not prepare tax returns for compensation during the remainder of the current calendar year. Instead, the PTINs issued to these individuals will be valid for the following calendar year.

To assist with the transition to a calendar year renewal period, the IRS has determined that PTINs issued after September 27, 2010 and before October 16, 2011 will expire on December 31, 2011.

Section 3. Certain PTIN Holders Required to be Fingerprinted

Section 6109(c) provides that “the Secretary is authorized to require such information as may be necessary to assign an identifying number to any person.” Section 1.6109-2(d) provides that a PTIN must be applied for and received in the time and manner as may be prescribed by the IRS in forms, instructions, or other appropriate guidance. The IRS has previously stated that it intends to conduct a suitability check on all applicants prior to issuing a PTIN. As part of the suitability check, certain PTIN applicants will be required to be fingerprinted for purposes of performing a background check. Collected fingerprints will be processed through the Federal Bureau of Investigation’s (FBI) identification records database. Information obtained through this process will enable the IRS to better determine if the applicant should receive a PTIN or have an existing provisional PTIN revoked. The IRS is not requiring attorneys, certified public accountants, enrolled agents, enrolled retirement plan agents, and enrolled

actuaries to be fingerprinted at this time.

The Treasury Department and the IRS are currently establishing procedures to facilitate the collection and processing of fingerprints. The IRS is working with third-party vendors to establish these procedures. In addition, the Treasury Department and the IRS intend to publish regulations proposing to establish a user fee to be fingerprinted. It is anticipated that the third-party vendor will also charge a reasonable, IRS-approved fee for its fingerprinting services.

Additionally, under the current proposed regulations any participant in the PTIN, acceptance agent, or authorized e-file provider programs who resides and is employed outside of the United States will not have to be fingerprinted to participate in these programs. Such persons, however, must comply with all other elements of the suitability check. In addition, the Treasury Department and the IRS continue to study what additional requirements should apply to such persons. Any additional requirements would be set forth in future guidance.

The IRS will not require individuals to be fingerprinted prior to obtaining a PTIN until at least April 18, 2012. The IRS will announce the last date that an individual may receive a PTIN (or provisional PTIN) without first being fingerprinted in a news release issued at least 30 days before that date. After this date, individuals not exempted from the fingerprint requirement must be fingerprinted and pass the background check prior to obtaining a PTIN (provisional PTINs will no longer be available after the date provided in the news release).

In addition, individuals who obtain a PTIN (or a provisional PTIN) prior to the date

provided in the news release and who continually maintain their PTIN will not be required to be fingerprinted until December 31, 2013. After December 31, 2013, these individuals must be fingerprinted and pass the background check before renewing their PTIN unless they were already fingerprinted or are not required to be fingerprinted.

Section 4. Continuing Education Requirements for Registered Tax Return Preparers

Section 10.6(d)(4) of Circular 230 requires registered tax return preparers to renew their status as a registered tax return preparer as prescribed by the IRS in forms, instructions, or other appropriate guidance. As a condition of renewal, section 10.6(e)(3) of Circular 230 provides that registered tax return preparers must complete a minimum of fifteen hours of continuing education credits, including two hours of ethics or professional conduct, three hours of federal tax law updates, and ten hours of federal tax law topics during each registration year.

a. Continuing Education Requirements to be Completed on a Calendar Year Basis

The IRS has determined that registered tax return preparers must complete their continuing education requirements on a calendar year basis. The IRS will require registered tax return preparers (and provisional PTIN holders) to satisfy continuing education requirements beginning in 2012. Therefore, except as set forth in section 4b of this Notice, registered tax return preparers must complete continuing education requirements as prescribed in section 10.6(e)(3) of Circular 230 between January 1st and December 31st of each year beginning in 2012.

b. Continuing Education Requirements Prorated for Individuals Who

Initially Become a Registered Tax Return Preparer During the Registration Year

Continuing education requirements for individuals who initially become a registered tax return preparer after January 31st will be prorated for the initial registration year. These individuals will be required to complete one hour of continuing education credit regarding federal tax law updates or federal tax law topics for each month or portion of a month that the individual is a registered tax return preparer. In addition, these individuals will be required to complete two hours of ethics credits regardless of when the individual becomes a registered tax return preparer. For example, an individual who initially becomes a registered tax return preparer on April 20th is required to complete two hours of ethics credits plus 9 hours of credits regarding federal tax law or federal tax law updates. Except in the case of a waiver under section 10.6(i) of Circular 230, continuing education requirements will not be prorated after the initial application year. Individuals who do not timely renew their PTIN before December 31st ordinarily will not qualify for a waiver and must complete all of the continuing education hours required in section 10.6(e)(3) of Circular 230.

Contact Information

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