

1513-0117

TITLE XVII-GOVERNMENT PAPERWORK ELIMINATION ACT

SEC. 1701. SHORT TITLE.

This title may be cited as the "Government Paperwork Elimination Act".

SEC. 1702. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures."

SEC. 1703. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) **IN GENERAL.**—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) **REQUIREMENTS FOR PROCEDURES.**—

- (1) The procedures developed under subsection (a)—
 - (A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;
 - (B) may not inappropriately favor one industry or technology;
 - (C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

SEC. 1704. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. 1705. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. 1706. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. 1707. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. 1708. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 1709. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 1710. DEFINITIONS.

For purposes of this title:

(1) **ELECTRONIC SIGNATURE.**—The term "electronic signature" means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person's approval of the information contained in the electronic message.

(2) **EXECUTIVE AGENCY.**—The term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

OFFICE OF MANAGEMENT AND BUDGET Circular A-130 Paragraph 8.(3)

8. Policy:

3. What are the guidelines for Electronic Information Collection?

Executive agencies under Sections 1703 and 1705 of the Government Paperwork Elimination Act (GPEA), P. L. 105-277, Title XVII, are required to provide, by October 21, 2003, the (1) option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and (2) use and acceptance of electronic signatures, when practicable. Agencies will follow the provisions in OMB Memorandum M-00-10, "Procedures and Guidance on Implementing of the Government Paperwork Elimination Act."

26 U.S.C.

Sec. 6011. General requirement of return, statement, or list

(a) General rule

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the

forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) Identification of taxpayer

The Secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

(c) Returns, etc., of DISCS and former DISCS and FSC's and former FSC's

(1) Records and information

A DISC or former DISC or a FSC or former FSC shall for the taxable year--

(A) furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and

(B) keep such records, as may be required by regulations prescribed by the Secretary.

(2) Returns

A DISC shall file for the taxable year such returns as may be prescribed by the Secretary by forms or regulations.

(d) Authority to require information concerning section 912 allowances

The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate.

(e) Regulations requiring returns on magnetic media, etc.

(1) In general

The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

(2) Requirements of regulations

In prescribing regulations under paragraph (1), the Secretary--

(A) shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

(B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations.

Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.

(f) Promotion of electronic filing

(1) In general

The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

(2) Incentives

The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.

(g) Income, estate, and gift taxes

For requirement that returns of income, estate, and gift taxes be made whether or not there is tax liability, see subparts B and C.

(Aug. 16, 1954, ch. 736, 68A Stat. 732; Pub. L. 85-859, title I, Sec. 161, Sept. 2, 1958, 72 Stat. 1305; Pub. L. 88-563, Sec. 3(a), Sept. 2, 1964, 78 Stat. 843; Pub. L. 89-44, title I, Sec. 101(b)(6), June 21, 1965, 79 Stat. 136; Pub. L. 90-59, Sec. 4(b), July 31, 1967, 81 Stat. 154; Pub. L. 91-128, Sec. 4 (f), (g), Nov. 26, 1969, 83 Stat. 267; Pub. L. 92-178, title V, Sec. 504(a), Dec. 10, 1971, 85 Stat. 550; Pub. L. 94-455, title XIX, Secs. 1904(b)(10)(A)(ii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1817, 1834; Pub. L. 95-615, Sec. 207(c), Nov. 8, 1978, 92 Stat. 3108; Pub. L. 97-248, title III, Sec. 319, Sept. 3, 1982, 96 Stat. 610; Pub. L. 98-67, title I, Sec. 109(a), Aug. 5, 1983, 97 Stat. 383; Pub. L. 98-369, div. A, title VIII, Sec. 801(d)(12), July 18, 1984, 98 Stat. 997; Pub. L. 99-514, title XVIII, Sec. 1899A(52), Oct. 22, 1986, 100 Stat. 2961; Pub. L. 100-647, title I, Sec. 1015(q)(1), Nov. 10, 1988, 102 Stat. 3572; Pub. L. 101-239, title VII, Sec. 7713(a), Dec. 19, 1989, 103 Stat. 2394; Pub. L. 105-34, title XII, Sec. 1224, Aug. 5, 1997, 111 Stat. 1019; Pub. L. 105-206, title II, Sec. 2001(c), July 22, 1998, 112 Stat. 723.)

Sec. 6061. Signing of returns and other documents

(a) General rule

Except as otherwise provided by subsection (b) and sections 6062 and 6063, 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.

(b) Electronic signatures

(1) In general

The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may--

- (A) waive the requirement of a signature for; or
- (B) provide for alternative methods of signing or subscribing,

a particular type or class of return, declaration, statement, or other document required or permitted to be made or written under internal revenue laws and regulations.

(2) Treatment of alternative methods

Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1)(B) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed or subscribed.

(3) Published guidance

The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements or any method adopted under paragraph (1).

(Aug. 16, 1954, ch. 736, 68A Stat. 748; Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-206, title II, Sec. 2003(a), July 22, 1998, 112 Stat. 724.)

Sec. 7502. Timely mailing treated as timely filing and paying

(a) General rule

(1) Date of delivery

If any return, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such return, claim, statement, or other document is required to be filed, or to which such payment is required to be made, the date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.

(2) Mailing requirements

This subsection shall apply only if--

(A) the postmark date falls within the prescribed period or on or before the prescribed date--

(i) for the filing (including any extension granted for such filing) of the return, claim, statement, or other document, or

(ii) for making the payment (including any extension granted for making such payment), and

(B) the return, claim, statement, or other document, or payment was, within the time prescribed in subparagraph (A), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, officer, or office with which the return, claim, statement, or other document is required to be filed, or to which such payment is required to be made.

(b) Postmarks

This section shall apply in the case of postmarks not made by the United States Postal Service only if and to the extent provided by regulations prescribed by the Secretary.

(c) Registered and certified mailing; electronic filing

(1) Registered mail

For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail--

(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed; and

(B) the date of registration shall be deemed the postmark date.

(2) Certified mail; electronic filing

The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.

(d) Exceptions

This section shall not apply with respect to--

(1) the filing of a document in, or the making of a payment to, any court other than the Tax Court,

(2) currency or other medium of payment unless actually received and accounted for, or

(3) returns, claims, statements, or other documents, or payments, which are required under any provision of the internal revenue laws or the regulations thereunder to be delivered by any method other than by mailing.

(e) Mailing of deposits

(1) Date of deposit

If any deposit required to be made (pursuant to regulations prescribed by the Secretary under section 6302(c)) on or before a prescribed date is, after such date, delivered by the United States mail to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit, such deposit shall be deemed received by such bank, trust company, domestic building and loan association, or credit union on the date the deposit was mailed.

(2) Mailing requirements

Paragraph (1) shall apply only if the person required to make the deposit establishes that--

(A) the date of mailing falls on or before the second day before the prescribed date for making the deposit (including any extension of time granted for making such deposit), and

(B) the deposit was, on or before such second day, mailed in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the bank, trust company, domestic building and loan association, or credit union authorized to receive such deposit.

In applying subsection (c) for purposes of this subsection, the term "payment" includes "deposit", and the reference to the postmark date refers to the date of mailing.

(3) No application to certain deposits

Paragraph (1) shall not apply with respect to any deposit of \$20,000 or more by any person who is required to deposit any tax more than once a month.

(f) Treatment of private delivery services

(1) In general

Any reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked as described in paragraph (2)(C) by any designated delivery service.

(2) Designated delivery service

For purposes of this subsection, the term "designated delivery service" means any delivery service provided by a trade or business if such service is designated by the Secretary for purposes of this section. The Secretary may designate a delivery service under the preceding sentence only if the Secretary determines that such service--

(A) is available to the general public,

(B) is at least as timely and reliable on a regular basis as the United States mail,

(C) records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item referred to in this section is to be delivered, the date on which such item was given to such trade or business for delivery, and

(D) meets such other criteria as the Secretary may prescribe.

(3) Equivalents of registered and certified mail

The Secretary may provide a rule similar to the rule of paragraph (1) with respect to any service provided by a designated delivery service which is substantially equivalent to United States registered or certified mail.

(Aug. 16, 1954, ch. 736, 68A Stat. 895; Pub. L. 85-866, title I, Sec. 89(a), Sept. 2, 1958, 72 Stat. 1665; Pub. L. 89-713, Sec. 5(a), Nov. 2, 1966, 80 Stat. 1110; Pub. L. 90-364, title I, Sec. 106(a), June 28, 1968, 82 Stat. 266; Pub. L. 94-455, title XIX, Secs. 1906(a)(49), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1831, 1834; Pub. L. 95-147, Sec. 3(b), Oct. 28, 1977, 91 Stat. 1228; Pub. L. 98-369, div. A, title I, Sec. 157(a), July 18, 1984, 98 Stat. 695; Pub. L. 99-514, title XVIII, Sec. 1811(e), Oct. 22, 1986, 100 Stat. 2833; Pub. L. 104-168, title XII, Sec. 1210, July 30, 1996, 110 Stat. 1474; Pub. L. 105-206, title II, Sec. 2003(b), July 22, 1998, 112 Stat. 725.)

27 CFR

PART 73_ELECTRONIC SIGNATURES; ELECTRONIC SUBMISSION OF FORMS

Subpart C-Electronic Filing of Documents with TTB

Sec. 73.30 What does subpart C cover?

This subpart provides the conditions under which we will allow you to satisfy certain reporting requirements of this chapter by submitting forms to us electronically.

Sec. 73.31 May I submit forms electronically to TTB?

Yes; you may submit an electronic form, instead of a paper form, to satisfy any reporting requirement in this chapter, only if:

(a) We have published a notice in the Federal Register and on our Web site (<http://www.ttb.gov>) announcing that we are prepared to receive a particular form electronically;

(b) You have registered to do so pursuant to the instructions in a notice published in the Federal Register and on our Web site as stated above;

(c) You submit the electronic form to an electronic document receiving system that we have designated for the receipt of that specific form; and

(d) The electronic form bears valid electronic signatures, as provided in subpart B of this part, to the same extent that the paper submission for which it substitutes would bear handwritten signatures.

Sec. 73.32 May I electronically sign forms I submit electronically to TTB?

You may electronically sign the electronic form you submit to us if:

(a) You have registered with TTB to do so and have certified, prior to the time of such use, that the electronic signatures or digital signatures in your system are intended to be the legally binding equivalent of traditional handwritten signatures;

(b) The electronic or digital signature meets the standards of this

part and is authorized by TTB in accordance with this part; and

(c) The electronic or digital signature is sufficiently trustworthy and reliable that the signing party may not repudiate the signature.

Sec. 73.33 Am I legally bound by a form I sign electronically?

Yes; by electronically signing a form you submit to us, you are agreeing to be legally bound to the same extent as if you applied a traditional handwritten signature on a paper document submitted to satisfy the same reporting requirement. Persons using electronic signatures shall, upon TTB's request, provide additional certification or testimony that a specific electronic signature is the legally binding equivalent of the signer's handwritten signature.

Sec. 73.34 When is an electronically submitted form considered timely filed?

If you submit a form to our electronic document receiving system, your report will be considered filed on the date of the electronic postmark given by that system.

Sec. 73.35 Do I need to keep paper copies of forms I submit to TTB electronically?

Nothing in this part alters any other regulatory or statutory requirement that records be maintained in paper format. If the regulations in this chapter require you to keep paper copies of certain forms, you must continue to do so unless TTB otherwise authorizes you to maintain electronic copies of these documents through a general notice in the Federal Register or through a variance.