

**\*\*\* JUSTIFICATION FOR EMERGENCY APPROVAL \*\*\***

Emergency approval of a collection of information is requested by the Commissioner of Internal Revenue under 44 U.S.C § 3507(j)(1) for the notice of proposed revenue procedure (attached) that provides guidance regarding the procedures for requesting an undue hardship waiver of the electronic filing requirement of new section 6011(e)(3) of the Internal Revenue Code, with a statutory effective date of January 1, 2011. As explained below, all of the requirements of section 3507(j)(1) for emergency approval are satisfied.

Background

See CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION above.

Section 3507(j)(1)(A)

The collection of information falls within both prongs of section 3507(j)(1)(A). First, as required by section 3507(j)(1)(A)(i), the collection of information is needed prior to the expiration of the normal clearance period (approximately May 2011). The Act requires returns filed after December 31, 2010, by STRPs be filed electronically. The proposed revenue procedure therefore must be finalized and in place before or shortly after the beginning of the tax filing season in January 2011, so that STRPs will know the procedures for requesting a waiver of the electronic filing requirement in cases of undue hardship. Preparers who qualify for a hardship waiver will need time before the tax season begins to request the waivers, and the IRS will need time to process them. If an undue hardship waiver request is denied, the preparer will need additional time to request reconsideration, if desired. It also takes a minimum of 45 days for a preparer to enter the IRS e-file program, which includes background and security checks before the preparer receives an electronic filing number needed to file returns electronically. Second, as required by section 3507(j)(1)(A)(ii), the collection of information is essential to the IRS' mission of administering the internal revenue laws. The undue hardship waiver requests are a key component to the IRS' interpretation and effective and efficient administration of the section 6011(e)(3) electronic filing requirement. The Department of Treasury and the IRS anticipate that final regulations under section 6011(e)(3) and the revenue procedure will be published in January 2011.

Section 3507(j)(1)(B)

Pursuant to section 3507(j)(1)(B), the IRS cannot reasonably comply with the nonemergency procedures of section 3507. Section 3507(j)(1)(B) sets forth three criteria, at least one of which must apply: (i) public harm is reasonably likely to result if normal clearance procedures are followed; (ii) an unanticipated event has occurred; or (iii) the use of normal clearance procedures is reasonably likely

to cause a statutory or court-ordered deadline to be missed. As previously discussed above, the third criterion applies in this instance – statutory deadline. The Act requires returns filed after December 31, 2010, by STRPs be filed electronically. The proposed revenue procedure on guidance to STRPs regarding the procedures for requesting an undue hardship waiver of the section 6011(e)(3) electronic filing requirement must be finalized and in place before or shortly after the beginning of the tax filing season in January 2011 so that specified tax return preparers will know how to request waivers in cases of undue hardship. Preparers who qualify for a hardship waiver will need time before the tax season begins to request the waivers, and the IRS will need time to process them. If an undue hardship waiver request is denied, the preparer will need additional time to request reconsideration, if desired. It also takes up to 45 days for a preparer to enter the IRS e-file program. For the provisions of the proposed revenue procedure to be effective for the next filing season (January – April 2011), the approval of the collection of information in the notice of proposed revenue procedure is needed as quickly as possible and before it would ordinarily be granted under the standard procedures.