

General Instructions

Section and subtitle A references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Specified tax return preparers use Form 8944 to request an undue hardship waiver from the section 6011(e)(3) requirement to electronically file returns of income tax imposed by subtitle A on individuals, estates, or trusts. For more information on who is considered a specified tax return preparer, and the returns to which this requirement applies, see *Specified Tax Return Preparer and Covered Returns*, below.

Specified Tax Return Preparer

A specified tax return preparer is a tax return preparer, as defined in section 7701(a)(36) and Regulations section 301.7701-15, who is a preparer of covered returns and who reasonably expects (if the preparer is a member of a firm, the firm's members in the aggregate reasonably expect) to file a specified number of covered returns during a calendar year. For calendar year 2011, the specified number of covered returns is 100 or more.

Aggregate Filing of Returns. For the e-file requirement, "aggregate" means the total number of covered returns that are reasonably expected to be filed by the firm as a whole. For example, if a firm has 10 preparers and each preparer in the firm reasonably expects to prepare and file 10 covered returns, the aggregate for the firm equals 100 covered returns.

Note. For calendar years after 2011, it is anticipated the above specified number of covered returns will be reduced to 11 or more.

Covered Returns

Covered returns include any return of income tax imposed by subtitle A on individuals, estates, or trusts. This includes any return of income tax in the Form 1040 series such as Form 1040, U.S. Individual Income Tax Return; Form 1040A, U.S. Individual Income Tax Return; and Form 1040EZ, U.S. Income Tax Return for Single and Joint Filers with No Dependents. It also includes Form 1041, U.S. Income Tax Return for Estates and Trusts and Form 990-T, Exempt Organization Business Income Tax Return, when the exempt organization is a trust subject to tax on unrelated business taxable income under section 511(b). Note that a waiver is not needed for Form 990-T because it cannot currently be filed electronically.

When a Return is Considered Filed by Preparer

A return is considered filed by a tax return preparer or specified tax return preparer if the preparer or any member, employee, or agent of the preparer or the preparer's firm submits the tax return to the IRS on the taxpayer's behalf, either electronically or in non-electronic (paper) form. Submission of a tax return in paper form includes the direct or indirect transmission, sending, mailing, or otherwise delivering the paper tax return to the IRS by the preparer or by any member, employee, or agent of the preparer or the preparer's firm, and includes any act(s) of assistance that go beyond the providing of filing or delivery instructions to the taxpayer-client. This definition of "file" or "filed" by a tax return preparer applies only for the purposes of section 6011(e)(3) and regulations issued under that section, and does not apply for any other purpose under any other provision of law.

Who May File

If you are a specified tax return preparer who is required to file individual, estate, or trust tax returns electronically, and filing these returns electronically would be a hardship, use this form to request a waiver. After evaluating your request, the IRS will notify you in writing whether your request was approved or denied.

When To File

For calendar year 2011, hardship waiver requests must be submitted from December 2010 through April 1, 2011. Any request submitted after the required date will only be reviewed under limited circumstances. Generally, the delay in submission must be due to unusual or unforeseen, and unavoidable circumstances. If you are submitting Form 8944 after the required date, attach a statement to the form explaining the reason(s) why it is being submitted late.

Where To File

Mail the completed Form 8944 and any required attachments to:

Internal Revenue Service
Attn: EFU Waiver
P.O. Box 4099
Stop 983
Woburn, MA 01888-4099

Alternatively, you can file Form 8944 and any required attachments by faxing them to 877-477-0567.

File by either mail **or** fax. Do not do both.

Allow 4-6 weeks to receive notification of approval or denial of your waiver request.

Telephone Help

If you have a question about completing this form, or if you need to check on the status of a hardship waiver request that you have filed, call the IRS at 1-866-255-0654.

Specific Instructions

Line 1. Enter the calendar year for which you are requesting a hardship waiver. Indicate the type of submission by checking the "Original" or "Reconsideration" box. An original submission is your first request for a hardship waiver for the calendar year entered on this line. A reconsideration is when you are submitting additional information to the IRS that you feel may overturn the denial of an originally submitted request.

Line 2. Enter your name and complete address.

Line 4. Enter the telephone number where we can contact you if we have questions about your hardship waiver request.

Line 5. If this is the first time you have ever requested a hardship waiver from the electronic filing requirement, check the "Yes" box. If you have requested a hardship waiver in the past, check the "No" box.

Line 6. If you are a tax return preparer in a firm and the members of the firm in the aggregate reasonably expect to file 100 or more covered returns in calendar year 2011, check the "Yes" box and enter your firm's name and EIN. If you are a tax return preparer who is not a member of a firm, check the "No" box.



If you are a tax return preparer who reasonably expects to file fewer than 100 covered returns in calendar year 2011, you may still be required to e-file the covered returns you prepare and file if you are a preparer who is a member of a firm. All tax return preparers in a firm must e-file the covered returns they prepare and file if the firm's preparers, in the aggregate, reasonably expect to file 100 or more covered returns in calendar year 2011. For example, if the firm estimated that it will file 90 Forms 1040 and 20 Forms 1041, then the estimated filing total would be 110 covered returns.

Line 7. Check the box(es) beside the form(s) for which the hardship waiver is being requested.

Line 7(i). For each type of return checked, enter the total number of tax returns you filed in the calendar year before the calendar year entered on line 1.

Line 7(ii). For each type of return checked, enter an estimate of the total number of tax returns you expect to file in the calendar year entered on line 1. When determining this estimate, do not count returns that you reasonably expect your clients will choose to have completed in a paper format and will file with the IRS themselves. Also, do not count returns that you do not expect to e-file for reasons beyond your control. For example, do not count forms that cannot currently be filed electronically (such as Form 990-T, Form 1040NR, and Form 1041-QFT).

Line 7(iv). If you answered "Yes" to question 6, enter the number of tax returns all of the preparers in your firm reasonably expect to file in the calendar year entered on line 1. When determining this estimate, do not count any return that would be excluded for the reasons provided earlier in the instructions for line 7(ii).

Line 8. Check the appropriate box to indicate the reason for the hardship waiver request. Check only one box.

Line 8a. If you checked box 8a, you must attach a copy of the bankruptcy court documentation.

Line 8b. If you checked box 8b, you must complete line 9. See *Line 9*, below, for more information.

Line 8c or 8d. If you checked box 8c or 8d, you must complete line 10. See *Line 10*, below, for more information.

Line 9. Waivers filed for economic hardship must have line 9 completed. Enter the cost estimates from two third parties. These cost estimates must reflect the total amount that each third party will charge for purchasing a computer (if you do not have a computer), software, software upgrades, programming for your current system, and the costs to produce your electronic files. If you do not provide two written cost estimates from third parties, your request will be denied. Cost estimates must be calculated for the calendar year entered on line 1. A cost estimate calculated for a year other than the calendar year entered on line 1 will not be accepted.

Line 10. If you checked box 8c or 8d, you must explain in detail the hardship that caused you to file this waiver. Waivers filed for a Presidentially declared disaster must include documentation of the direct impact of the disaster on your ability to electronically file tax returns. Waivers filed for other hardships must provide complete documentation detailing the hardship described on line 10 and the hardship's impact on your ability to electronically file tax returns. If you attach additional sheet(s), include on each sheet the name entered in line 2 and the PTIN entered on line 3.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on these forms to carry out the Internal Revenue laws of the United States. Code section 6011(e)(3) generally requires specified tax return preparers to file income tax returns electronically that they prepare and file for individuals, estates, and trusts. Tax return preparers who meet the definition of specified tax return preparer use this form to request a hardship waiver from this general requirement. Requesting a hardship waiver is optional; however, if you request a hardship waiver, you must provide the information requested on this form. Section 6109 requires you to provide your identifying number. We may disclose this information to the Department of Justice for civil or criminal litigation and to cities, states, and the District of Columbia to administer their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide the requested information may prevent the processing of this form, providing false information may subject you to penalties. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to provide this information would vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** 5 hr., 44 min.
- Learning about the law or the form** 28 min.
- Preparing and sending the form** 1 hr., 46 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this office. Instead, see *Where To File*, earlier.