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## E-File Mandate for Tax Return Preparers

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### Introduction

This bulletin provides information on who is subject to the e-file mandate for tax return preparers, how to e-file, the tax documents subject to the e-file mandate, and the penalties involved for noncompliance. Clients may also be required to e-pay when filing certain returns or documents. Preparers are not allowed to charge a separate fee for e-filing.

### Who must e-file

You must e-file in the current calendar year if you meet **either** of the following conditions:

- **You or your firm prepared tax documents for more than 10 taxpayers.**

You or your firm prepared at least one authorized tax document for more than 10 different taxpayers during the previous calendar year and will use tax software to prepare one or more of these tax documents in the current calendar year.

An authorized tax document includes any document that the Tax Department authorizes to be e-filed. If the document cannot be e-filed, you do not have to count it to determine if you meet the ten-taxpayer threshold.

- **You were previously subject to the mandate.**

Once subject to the e-file mandate, you must continue to e-file all of your clients' authorized tax documents in future years, regardless of the number of taxpayers you prepare returns for.

The mandate applies to preparers located within and outside New York State.

### How to e-file

Depending on the document, you can use tax preparation software to e-file, or Web File through the Tax Department's Online Services. In some cases, you will have the option to use either method.

### E-pay mandate

Your client may be required to e-pay any remittances for authorized tax documents that must be e-filed.

### Documents and payments subject to the mandate

See [E-file mandate and filing/payment methods](#) on our Web site for a list of tax documents subject to the mandate, the method required to submit each document, and the available payment methods.

**Definitions**

You are a *tax return preparer* if you:

- prepare any New York State tax return or claim for refund for compensation; or
- receive compensation for tax returns or claims for refund prepared by people whom you employ or engage. (A tax return preparer also includes a payroll service.)

An *authorized tax document* is a tax document authorized by the Commissioner of Taxation and Finance to be filed electronically. For purposes of the e-file mandate, an authorized tax document does not include any return or report that includes one or more tax documents that cannot be filed electronically.

*Tax software* is any computer software program intended for tax return preparation purposes. This includes, but is not limited to:

- an off-the-shelf software program loaded onto a tax return preparer’s or taxpayer’s computer;
- an online tax preparation application; or
- a tax preparation application hosted by the Tax Department.

**Penalties for failure to e-file**

If you do not file and pay electronically when required to do so, the department may impose penalties on both you and your clients.

<b>Tax professional penalties</b>	<b>Amount</b>
Failure to e-file a tax document	\$50 penalty for each document, unless you can establish reasonable cause
Charging a separate e-file fee	\$500 penalty applies to a first-time charge, \$1,000 penalty applies to each subsequent charge

<b>Client penalties*</b>	<b>Amount</b>
Failure to e-file	\$50 penalty per tax document
Failure to e-pay	\$50 penalty per payment

\*These penalties do not apply to individual personal income taxpayers.

In addition, for taxes other than personal income tax, the following will apply to your client:

- A taxpayer is subject to the failure to file penalty imposed for that tax type, even if a paper return is filed.
- Any overpayment claimed on a paper tax document that was required to be electronically filed will not be eligible to receive interest until the document is filed electronically.

**Reasonable cause not to e-file**

We will make reasonable-cause determinations on a case-by-case basis, using our current standards found in the Tax Department’s Procedural Regulations (20 NYCRR sections 2392.1, 2396.11 and 2397.7).

We will also take the following circumstances into account in determining whether reasonable cause exists:

- whether the preparer's New York State approved e-file software supports e-filing of a return;
- whether the return was e-filed, but rejected for a condition that cannot be identified or resolved;
- whether there existed an extended Internet outage at the preparer's place of business;
- any other cause which appears to a person of ordinary prudence and intelligence as a reasonable cause for the failure to e-file and that clearly indicates an absence of willful intent to disregard the e-file mandate; and
- a preparer's overall compliance with the New York State e-file mandate.

Although we will make reasonable-cause determinations on a case-by-case basis, the following facts and circumstances will never be considered reasonable cause:

- a client's desire to opt out of e-filing,
- a preparer's failure to obtain an electronic filing identification number (EFIN),
- ignorance of the law, or
- reluctance to provide bank account information electronically.

**Note:** A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

#### References and other useful information

**Tax Law:** Section 29

**Publications:**

[Publication 90](#), *New York State Modernized E-File (MeF) Handbook for Software Developers and E-File Providers of Fiduciary Income Tax Returns*

[Publication 93](#), *New York State Personal Income Tax Modernized e-file (MeF) Guide for Return Preparers*

[Publication 96](#), *Partnership Modernized E-File (MeF) Handbook for Tax Practitioners*

[Publication 116](#), *Corporation Tax Modernized E-File Handbook for Tax Practitioners*