29 is corrected by making the following correcting amendments:

**List of Subjects in 14 CFR Part 29, Subpart F**

Equipment.

■ Accordingly, 14 CFR part 29 is corrected by making the following correcting amendments:

## PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

■ 1. The authority citation for part 29 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

■ 2. Revise paragraphs (g) introductory text, (g)(1) and (g)(4) of § 29.1303 to read as follows:

**§ 29.1303 Flight and navigation instruments.**

* * * * *

(g) A gyroscopic rate-of-turn indicator combined with an integral slip-skid indicator (turn-and-bank indicator) except that only a slip-skid indicator is required on rotorcraft with a third attitude instrument system that—

(1) Is usable through flight attitudes of ± 80 degrees of pitch and ± 120 degrees of roll;

(2) * * *

(3) * * *

(4) Operates independently of any other attitude indicating system;

* * * * *

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

[FR Doc. 05–553 Filed 1–11–05; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Parts 1 and 301

**[TD 9175]**

**RIN 1545–BE19**

## Returns Required on Magnetic Media

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations relating to the requirements for filing corporate income tax returns and returns of organizations required to file returns under section 6033 on magnetic media pursuant to section 6011(e) of the Internal Revenue Code. The term magnetic media includes any magnetic media permitted under applicable regulations, revenue procedures, or publications, including electronic filing. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** These regulations are effective January 12, 2005.

**FOR FURTHER INFORMATION CONTACT:** Michael E. Hara, (202) 622–4910 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

Electronic filing of tax returns benefits taxpayers and the IRS by eliminating the manual processing of returns and reducing errors that are more likely to occur during the manual preparation and processing of paper returns. Electronic filing results in faster settling of accounts and better customer service because the time required to process paper returns is eliminated. The error rate for corporate income tax returns filed on Form 1120, ''U.S. Corporation Income Tax Return'' and Form 1120S, U.S. Income Tax Return for an S Corporation,'' on paper is approximately 20 percent. Information returns required to be filed under section 6033, which include Form 990, ''Return of Organization Exempt From Income Tax,'' and Form 990–PF, ''Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation,'' that are filed on paper have an error rate of approximately 35 percent. The error rate for paper returns is due in roughly equal parts to IRS processing errors and taxpayer return preparation mistakes. By contrast, electronically filed returns have an error rate of less than one percent because these returns are subject to screening by the IRS prior to being accepted and are not required to be input manually by the IRS. Furthermore, returns required to be filed pursuant to section 6033 must be made available to the public by both the organization and the IRS pursuant to section 6104. Many state charity regulatory agencies rely on these returns. Requiring these returns to be filed electronically improves the accuracy of the information for both public and regulatory oversight of these organizations.

Electronic filing of returns improves taxpayer satisfaction and confidence in the filing process, and may be more cost effective for taxpayers who file electronically. Electronic filing will enable the IRS to review taxpayer submissions expeditiously to reduce audit cycle time and will help the IRS identify emerging trends.

In February 2004, the IRS introduced Modernized e-File, a new electronic filing system for corporations required to file Form 1120 or Form 1120S and organizations required to file Form 990. During the development of Modernized e-File, the IRS worked closely with taxpayers and tax professionals to ensure that the new electronic filing system would satisfy their needs. Modernized e-File alleviates the burden of filing massive paper returns, which may be up to 50,000 pages in length. Electronically filed returns are processed upon receipt and, shortly thereafter, an IRS acknowledgment message is generated to inform taxpayers or tax professionals that the return has been accepted or rejected. Error messages for rejected returns identify the reasons the return was rejected and make it easier for the taxpayer or tax professional to correct the errors. Modernized e-File streamlines electronic filing by eliminating the need for paper documents to be mailed to the IRS and enables taxpayers to attach forms and schedules, along with other documents, to the return in Portable Document Format (PDF).

Section 6011(e) authorizes the Secretary to prescribe regulations providing the standards for determining which returns must be filed on magnetic media or in other machine-readable form. Section 6011(e)(2) provides that the Secretary may not require any person to file returns on magnetic media unless the person is required to file at least 250 returns during the calendar year. Section 6011(e)(2)(B) requires that the Secretary, prior to issuing regulations requiring these entities to file returns on magnetic media, take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of the regulations. The term magnetic media includes any magnetic media permitted under applicable regulations, revenue procedures, or publications, including electronic filing. Recognizing the benefits of electronic filing, Congress enacted section 2001(a) of the IRS Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 727, which states that the policy of Congress is to promote paperless filing, with a long-range goal of providing for the filing of at least 80 percent of all Federal and information returns in electronic form by 2007.

The IRS has partnered with taxpayers and tax practitioners in the design of Modernized e-File to minimize burdens

on taxpayers and tax practitioners and to address their concerns. Most corporate returns are prepared with the assistance of tax return preparation software. Some of these returns cannot yet be filed electronically using Modernized e-File because additional software is needed to format the return data and additional hardware may be needed to transmit the return data to the IRS. As a result, some taxpayers may incur incremental costs to make the transition from paper filing to electronic filing using Modernized e-File. After carefully evaluating the benefits of electronic filing and the burdens that might be imposed on filers, the IRS has determined that taxpayers will be able to convert to electronic filing at a reasonable cost and that the benefits to both the IRS and taxpayers substantially outweigh the costs.

These regulations amend the Regulations on Procedure and Administration (26 CFR part 301) relating to the filing on magnetic media pursuant to section 6011(e) of corporate income tax returns, S corporation returns, and returns required under section 6033. These regulations provide that certain large corporations, including S corporations, are required to file their corporate income tax returns electronically. These regulations also provide that certain large exempt organizations, nonexempt charitable trusts, and exempt and nonexempt private foundations are required to file electronically returns required to be filed under section 6033.

The IRS currently does not have the capability to accept electronic filing of certain types of Form 1120, Form 1120S, Form 990, and Form 990–PF, such as a Form 1120 for a taxpayer that has changed its accounting period or a Form 1120 that is the taxpayer's final return. These types of returns are excluded from the electronic filing requirement under these regulations. The IRS will announce those returns that are excluded from electronic filing under these regulations in its publications, forms and instructions. The Treasury Department and the IRS intend to require electronic filing of additional corporate income tax returns, excise tax returns and returns required to be filed under section 6033 as the IRS increases its capability to receive these forms electronically, provided that the Treasury Department and the IRS determine that taxpayers are able to comply with the electronic filing requirements at a reasonable cost.

**Explanation of Provisions**

To expand electronic filing, these regulations provide that the following taxpayers that are required by the Code or regulations to file at least 250 returns during the calendar year ending with or within the taxpayer's taxable year are required to file the following tax returns electronically for the taxable years indicated:

| Entities | Form(s) | Applicability dates |
|---|---|---|
| Corporations, including electing small business corporations, with assets of $50 million or more. | Form 1120, "U.S. Corporation Income Tax Return" or Form 1120S, "U.S. Income Tax Return for an S Corporation". | Taxable years ending on or after December 31, 2005. |
| Corporations, including electing small business corporations, with assets of $10 million or more. | Form 1120, "U.S. Corporation Income Tax Return" or Form 1120S, "U.S. Income Tax Return for an S Corporation". | Taxable years ending on or after December 31, 2006. |
| Exempt organizations with assets of $100 million or more that are required to file returns under section 6033. | Form 990, "Return of Organization Exempt From Income Tax". | Taxable years ending on or after December 31, 2005. |
| Exempt organizations with assets of $10 million or more that are required to file returns under section 6033. | Form 990, "Return of Organization Exempt From Income Tax". | Taxable years ending on or after December 31, 2006. |
| Private foundations or section 4947(a)(1) trusts that are required to file returns under section 6033. | Form 990–PF, "Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation". | Taxable years ending on or after December 31, 2006. |

Under these regulations, an entity's assets are determined based on total assets at the end of the taxable year as reported on the entity's Form 1120, 1120S, or 990.

Some of these large entities already file their returns electronically. In addition, many of these large entities prepare their income tax returns electronically, but file the returns on paper. The Treasury Department and the IRS have determined that these taxpayers are able to comply at a reasonable cost with the requirement to file returns electronically. To eliminate the potential burden of electronic filing on small businesses that may not be able to comply at a reasonable cost, these regulations exclude small corporations and certain exempt organizations with total assets of less than $10 million.

The determination of whether an entity is required to file at least 250 returns is made by aggregating all returns, regardless of type, that the entity is required to file over the calendar year, including, for example, income tax returns, returns required under section 6033, information returns, excise tax returns, and employment tax returns. Under these regulations, corrected or amended returns are not counted in determining whether the 250-return threshold is met. All members of a controlled group of corporations are required to file their Forms 1120 electronically if the total number of returns required to be filed by the controlled group of corporations is at least 250.

The aggregation of returns required under these regulations is limited to determining whether an entity is required to file Form 1120, Form 1120S, Form 990, or Form 990–PF electronically. These regulations do not affect § 301.6011–2(c)(1)(iii), which provides that returns are not to be aggregated for purposes of determining whether information returns must be filed on magnetic media. These regulations also do not affect § 301.6721–1(a)(2)(ii), which provides that the 250-return threshold requirements apply separately to original and corrected returns.

Corporations required to file Form 1120 or Form 1120S electronically under these regulations may file amended returns on paper in the form allowed by Rev. Proc. 94–69 (1994–2 C.B. 804), or in the manner prescribed by any subsequent revenue procedure. However, an entity that files an incomplete electronic return and subsequently files an amended paper return before the return's due date has not complied with the provisions of these regulations because a second return filed before the due date is treated as an original return.

*Hardship Waiver*

These regulations provide that the Commissioner may waive the requirements to file electronically in cases of undue hardship. Because the Treasury Department and the IRS believe that electronic filing will not impose significant burdens on the taxpayers covered by these regulations, the Commissioner will grant waivers of the electronic filing requirement only in exceptional cases. The Treasury Department and the IRS invite comments from the public regarding the waiver provision in these regulations. Additionally, the IRS will meet with various groups, including software developers and tax practitioners, to assist taxpayers in preparing to file their returns electronically. After considering comments, the Treasury Department and the IRS will issue guidance that will set forth the procedures by which a taxpayer may request a hardship waiver.

*Exclusions*

These regulations provide exclusions from the requirement to file electronically for certain corporations and organizations that have not had a longstanding filing obligation. Corporations and organizations are not required to file their returns electronically if they were not required to file a Form 1120, Form 1120S, Form 990, or Form 990–PF for the preceding taxable year or have not been in existence for at least one calendar year prior to the due date (not including extensions) of their Form 1120, Form 1120S, Form 990, or Form 990–PF.

*Date of Filing*

A return filed electronically is deemed to be filed on the date of the electronic postmark. See § 301.7502–1(d). If a corporation or organization that is required to file electronically fails to do so, the corporation or organization is deemed to have failed to file its return.

*Effective Dates*

To permit taxpayers sufficient time to implement the requirements of these regulations, these regulations apply to corporations required to file corporate income tax returns with total assets of $50 million or more as shown on their Schedule L of the Form 1120 or 1120S for taxable years ending on or after December 31, 2005, and to corporations required to file corporate income tax returns with total assets of $10 million or more as shown on their Schedule L of their Form 1120 or 1120S for taxable years ending on or after December 31, 2006. These regulations apply to any organization that is required to file Form 990 and that, for a taxable year ending on or after December 31, 2005, has total assets as of the end of the taxable year of $100 million or more or that, for a taxable year ending on or after December 31, 2006, has total assets as of the end of the taxable year of $10 million or more. These regulations will apply to any organization required to file Form 990-PF for taxable years ending on or after December 31, 2006. All other corporations and organizations are encouraged to adopt electronic filing as soon as feasible.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses of the preamble to the cross-reference of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

**Drafting Information**

The principal author of these temporary regulations is Michael E. Hara, Office of the Associate Chief Counsel (Procedure and Administration), although other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects**

*26 CFR Part 1*

Income taxes, Reporting and recordkeeping requirements.

*26 CFR Part 301*

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

■ Accordingly, 26 CFR parts 1 and 301 are amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.6011–5T is added to read as follows:

**§ 1.6011–5T Required use of magnetic media for corporate income tax returns (temporary).**

The return of a corporation that is required to be filed on magnetic media under § 301.6011–5T of this chapter must be filed in accordance with Internal Revenue Service revenue procedures, publications, forms, or instructions. (*See* § 601.601(d)(2) of this chapter).

■ **Par. 3.** Section 1.6033–4T is added to read as follows:

**§ 1.6033–4T Required use of magnetic media for returns by organizations required to file returns under section 6033 (temporary).**

The return of an organization that is required to be filed on magnetic media under § 301.6033–4T of this chapter must be filed in accordance with Internal Revenue Service revenue procedures, publications, forms, or instructions. (*See* § 601.601(d)(2) of this chapter).

■ **Par. 4.** Section 1.6037–2T is added to read as follows:

**§ 1.6037–2T Required use of magnetic media for income tax returns of electing small business corporations (temporary).**

The return of an electing small business corporation that is required to be filed on magnetic media under § 301.6037–2T of this chapter must be filed in accordance with Internal Revenue Service revenue procedures, publications, forms, or instructions. (*See* § 601.601(d)(2) of this chapter).

## PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 5.** The authority citation for part 301 is amended by adding entries, in numerical order, to read as follows:

**Authority:** 26 U.S.C. 7805 * * *

Section 301.6011–5T also issued under 26 U.S.C. 6011. * * *

Section 301.6033–4T also issued under 26 U.S.C. 6033. * * *

Section 301.6037–2T also issued under 26 U.S.C. 6037. * * *

■ **Par. 6.** Section 301.6011–5T is added to read as follows:

**§ 301.6011–5T Required use of magnetic media for corporate income tax returns (temporary).**

(a) *Corporate income tax returns required on magnetic media*—(1) A corporation required to file a corporate income tax return on Form 1120, ''U.S. Corporation Income Tax Return,'' under § 1.6012–2 of this chapter must file its corporate income tax return on magnetic

media if the corporation is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year ending with or within its taxable year, was required to file a corporate income tax return on Form 1120 under § 1.6012–2 of this chapter for the preceding taxable year, and has been in existence for at least one year prior to the due date (excluding extensions) of its corporate income tax return. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (*See* § 601.601(d)(2) of this chapter).

(2) All members of a controlled group of corporations must file their corporate income tax returns on magnetic media if the aggregate number of returns required to be filed by the controlled group of corporations is at least 250.

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a corporation fails to file a corporate income tax return on magnetic media when required to do so by this section, the corporation is deemed to have failed to file the return. (*See* section 6651 for the addition to tax for failure to file a return). In determining whether there is reasonable cause for failure to file the return, § 301.6651–1(c) and rules similar to the rules in § 301.6724–1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms, or instructions. (*See* § 601.601(d)(2) of this chapter).

(2) *Corporation.* The term *corporation* means a corporation as defined in section 7701(a)(3).

(3) *Controlled group of corporations.* The term *controlled group of corporations* means a group of corporations as defined in section 1563(a).

(4) *Corporate income tax return.* The term *corporate income tax return* means a Form 1120, ''U.S. Corporation Income Tax Return,'' along with all other related forms and schedules that are required to be attached to the Form 1120.

(5) *Determination of 250 returns.* For purposes of this section, a corporation or controlled group of corporations is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the corporation or the controlled group, the corporation or the controlled group is required to file at least 250 returns of any type, including information returns. If the corporation is a member of a controlled group, the determination of the number of returns includes all returns required to be filed by all members of the controlled group during that calendar year.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(5) of this section:

*Example.* The taxable year of Corporation X, a fiscal year taxpayer with assets in excess of $10 million, ends on September 30. During the calendar year ending December 31, 2007, X was required to file one Form 1120, ''U.S. Corporation Income Tax Return,'' 100 Forms W–2, ''Wage and Tax Statement,'' 146 Forms 1099-DIV, ''Dividends and Distributions,'' one Form 940, ''Employer's Annual Federal Unemployment (FUTA) Tax Return,'' and four Forms 941, ''Employer's Quarterly Federal Tax Return.'' Because X is required to file 252 returns during the calendar year that ended within its taxable year ending September 30, 2008, X is required to file its Form 1120 electronically for its taxable year ending September 30, 2008.

(f) *Effective dates.* This section applies to corporate income tax returns for corporations that report total assets at the end of the corporation's taxable year that equal or exceed $50 million on Schedule L of their Form 1120, for taxable years ending on or after December 31, 2005. This section applies to corporate income tax returns for corporations that report total assets at the end of the corporation's taxable year that equal or exceed $10 million on Schedule L of their Form 1120, for taxable years ending on or after December 31, 2006.

■ **Par. 7.** Section 301.6033–4T is added to read as follows:

**§ 301.6033–4T Required use of *magnetic media* for returns by organizations required to file returns under section 6033 (temporary).**

(a) *Returns by organizations required to file returns under section 6033 on magnetic media.* An organization required to file a return under section 6033 on Form 990, ''Return of Organization Exempt from Income Tax,'' or Form 990–PF, ''Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation,'' must file its Form 990 or 990–PF on magnetic media if the organization is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year ending with or within its taxable year, was required to file its Form 990 or Form 990–PF under section 6033 for the preceding taxable year, and has been in existence for at least one calendar year prior to the due date (excluding extensions) of its Form 990 or Form 990–PF. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (*See* § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an organization required to file a return under section 6033 fails to file an information return on magnetic media when required to do so by this section, the organization is deemed to have failed to file the return. (*See* section 6652 for the addition to tax for failure to file a return.) In determining whether there is reasonable cause for failure to file the return, § 301.6652–2(f) and rules similar to the rules in § 301.6724–1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term magnetic media means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted

under the applicable regulations, procedures, publications, forms or instructions. (*See* § 601.601(d)(2) of this chapter).

(2) *Return required under section 6033.* The term *return required under section 6033* means a Form 990, ''Return of Organization Exempt from Income Tax,'' and Form 990–PF, ''Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation,'' along with all other related forms and schedules that are required to be attached to the Form 990 or Form 990–PF.

(3) *Determination of 250 returns.* For purposes of this section, an organization is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the organization, the organization is required to file at least 250 returns of any type, including information returns.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(3) of this section. In the example, the organization is a calendar year taxpayer:

*Example.* In 2006, Organization T, with total assets in excess of $10 million, is required to file one Form 990, ''Return of Organization Exempt from Income Tax,'' 200 Forms W–2, ''Wage and Tax Statement,'' and 60 Forms 1099–MISC, ''Miscellaneous Income.'' Because T is required to file 261 returns during the calendar year, T must file its 2006 Form 990 electronically.

(f) *Effective dates.* This section applies to any organization required to file Form 990 for a taxable year ending on or after December 31, 2005, that has total assets as of the end of the taxable year of $100 million or more. This section applies to any organization required to file Form 990 for a taxable year ending on or after December 31, 2006 that has total assets as of the end of the taxable year of $10 million or more. This section applies to any organization required to file Form 990–PF for taxable years ending on or after December 31, 2006.

■ **Par. 8.** Section 301.6037–2T is added to read as follows:

**§ 301.6037–2T Required use of magnetic media for returns of electing small business corporation (temporary).**

(a) *Returns of electing small business corporation required on magnetic media*—An electing small business corporation required to file an electing small business return on Form 1120S, ''U.S. Income Tax Return for an S Corporation,'' under § 1.6037–1 of this chapter must file its Form 1120S on magnetic media if the small business corporation is required by the Internal Revenue Code and regulations to file at least 250 returns during the calendar year ending with or within its taxable year, was required to file its Form 1120S under § 6037–1 of this chapter for the preceding taxable year, and has been in existence for at least one calendar year prior to the due date (excluding extensions) of its Form 1120S. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (*See* § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an electing small business corporation fails to file a return on magnetic media when required to do so by this section, the corporation is deemed to have failed to file the return. (See section 6651 for the addition to tax for failure to file a return.) In determining whether there is reasonable cause for failure to file the return, § 301.6651–1(c) and rules similar to the rules in § 301.6724–1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms, or instructions. (*See* § 601.601(d)(2) of this chapter).

(2) *Corporation.* The term *corporation* means a corporation as defined in section 7701(a)(3).

(3) *Electing small business corporation return.* The term *electing small business corporation return* means a Form 1120S, ''U.S. Income Tax Return for an S Corporation,'' along with all other related forms and schedules that are required to be attached to the Form 1120S.

(4) *Electing small business corporation.* The term *electing small business corporation* means an S corporation as defined in section 1361(a)(1).

(5) *Determination of 250 returns.* For purposes of this section, a corporation is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(5) of this section. In the example, the corporation is a calendar year taxpayer:

*Example.* In 2007, Corporation S, an electing small business corporation with assets in excess of $10 million, is required to file one Form 1120S, ''U.S. Corporation Income Tax Return,'' 100 Forms W–2, ''Wage and Tax Statement,'' 146 Forms 1099–DIV, ''Dividends and Distributions,'' one Form 940, ''Employer's Annual Federal Unemployment (FUTA) Tax Return,'' four Forms 941, ''Employer's Quarterly Federal Tax Return.'' Because S is required to file 252 returns during the calendar year, S is required to file its 2007 Form 1120S electronically.

(f) *Effective dates.* This section applies to returns of electing small business corporations that report total assets at the end of the corporation's taxable year that equal or exceed $50 million on Schedule L of Form 1120S for taxable years ending on or after December 31, 2005. This section applies to returns of electing small business corporations that report total assets at the end of the corporation's taxable year that equal or exceed $10 million on Schedule L of Form 1120S for taxable years ending on or after December 31, 2006.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: January 6, 2005.

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 05–649 Filed 1–11–05; 8:45 am]

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