

The IRS Will Permit Electronic Submission of Form W-5

Announcement 99-3

The Internal Revenue Service will allow employers to establish a system to electronically receive Form W-5, Earned Income Credit Advance Payment Certificate. In general, the electronic system must meet the requirements described in paragraphs (1) through (5) below. In the next revision of Publication 15-A, Employer's Supplemental Tax Guide, the IRS will reflect the provisions of this announcement.

For purposes of this announcement, "employer" refers to a person who employs one or more individuals eligible to receive advance earned income credit payments. "Employee" refers to a filer of Form W-5 with that employer.

Requirements

(1) *In general.* The electronic system must ensure that the information received by the employer is the information sent by the employee. The system must document all occasions of user access that result in a submission. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and submitting the Form W-5 is the person identified on the form.

(2) *Same information as paper Form W-5.* The electronic submission must provide the employer with exactly the same information as the paper Form W-5.

(3) *Signature requirements and perjury statement.* The electronic submission must be signed with an electronic signature by the employee whose name is on the Form W-5.

(A) *Electronic signature.* The electronic signature must identify the employee submitting the electronic form and must authenticate and verify the submission. For this purpose, the terms "authenticate" and "verify" have the same meanings as they do when applied to a written signature on a paper Form W-5. An electronic signature can be in any form that satisfies the foregoing requirements. The electronic signature must be the final entry in the submission.

(B) *Perjury statement.* The electronic signature on Form W-5 must be under penalties of perjury. The perjury statement must contain the language that appears on the paper W-5. The electronic system must inform the employee that he or she makes the declaration contained in the perjury statement and that the declaration is made by signing the Form W-5. The language of the perjury statement must immediately follow the employee's certifying statements and immediately precede the electronic signature.

(4) *Copies of electronic Forms W-5.* Upon request by the Internal Revenue Service, the employer must supply a hard copy of the electronic Form W-5 and a statement that, to the best of the employer's knowledge, the electronic Form W-5 was submitted by the named employee. The hard copy of the electronic Form W-5 must provide exactly the same information as, but need not be a facsimile of, the paper Form W-5.

(5) *Recordkeeping.* Employers who choose to establish an electronic system for submission of Form W-5 must comply with the applicable recordkeeping requirements. See Rev. Proc. 98-25, 1998-11 I.R.B. 7.

(6) *Effective date.* This announcement applies to Forms W-5 submitted electronically by employees on or after January 19, 1999.

For further information regarding this announcement, contact Erinn Madden of the Office of the Assistant Chief Counsel (Employee Plans and Exempt Organizations) at (202) 622-6040 (not a toll-free call).
