

Part IV. Items of General Interest

Electronic Submission of Form 8850

Announcement 2002-44

Form 8850

Employers submit Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits*, to State Employment Security Agencies (SESAs) as part of the process of obtaining those tax credits. The Internal Revenue Service will allow the electronic submission of Forms 8850 with SESAs that choose to establish a system to electronically receive this form. In general, the electronic system must meet the requirements described in paragraphs (1) through (6) below.

For purposes of this announcement, “employer” refers to an employer required to submit a Form 8850 or an authorized employer representative.

Requirements

(1) *In General.* The electronic system must ensure that the information received is the information sent, and it must document all occasions of access that result in the submission of a Form 8850. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the persons signing the Form 8850, accessing the system, and submitting the Form 8850 are the job applicant and employer identified in the form.

(2) *Same Information as Paper Form 8850.* The electronic submission must provide the SESA with exactly the same information as the paper Form 8850.

(3) *Jurat and Signature Requirements.*

The electronic submission must be signed by the job applicant and the employer under penalties of perjury.

(A) *Jurat.* The jurats (perjury statements) must contain the language that appears on the paper Form 8850 for the job applicant and the employer, respectively. The electronic system must inform the job applicant and the employer that they must make the declaration contained in the applicable jurat and that the declaration is made by signing the Form 8850. The instructions and the language of each jurat must immediately follow the information provided by the job applicant or the employer, as applicable, and must

immediately precede that person’s electronic signature.

(B) *Electronic Signatures.* The electronic signatures must (1) identify the job applicant whose name is on the electronic Form 8850 and the employer submitting the electronic Form 8850, and (2) authenticate and verify the submission. For this purpose, the terms “authenticate” and “verify” have the same meaning as they do when applied to a written signature on a paper Form 8850. An electronic signature can be in any form that satisfies the foregoing requirements. The electronic signature of the employer must be the final entry in the submission.

(4) *Copies of Electronic Form 8850.* The electronic system must enable the employer to supply and, upon request by the Internal Revenue Service, the employer must supply (A) a hard copy of the electronic Form 8850 submitted to the SESA and (B) a statement that, to the best of the employer’s knowledge, the electronic Form 8850 was submitted by the employer with respect to the named job applicant. The hard copy of the electronic Form 8850 must provide exactly the same information as, but need not be a facsimile of, the paper Form 8850.

(5) *Retention of Forms 8850 by the SESAs and Employers.* Electronic Forms 8850 have the same status as paper Forms 8850. Therefore, guidance that applies to paper Forms 8850 also applies to electronic Forms 8850. For example, as is the case for paper Forms 8850, electronic Forms 8850 are required to be retained by employers under their established recordkeeping systems. For further information, see Rev. Proc. 98-25 (1998-1 C.B. 689) (information regarding the retention of records within an Automatic Data Processing System).

Drafting Information

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IRS Issues Document Warning Taxpayers to be Aware of Home-Based Business Tax Avoidance Schemes

Announcement 2002-48

The Internal Revenue Service just released a new brochure entitled *Home-Based Business Tax Avoidance Schemes . . . At A Glance*. The schemes described in the document claim to offer tax “relief,” but actually result in illegal tax

avoidance.

The promoters of these schemes claim that by setting up a bogus home-based business, individual taxpayers can deduct most, or all, of their personal expenses as business expenses. The brochure includes some examples of personal expenses that are not deductible but are commonly claimed as business expenses in home based business tax avoidance schemes.

The brochure explains that no matter how convincing the claims that are found in marketing materials for these schemes may appear, nondeductible personal living expenses cannot be transformed into deductible business expenses. The tax code firmly establishes that a clear business purpose and profit motive must exist in order to generate and claim allowable business expenses.

Taxpayers who claimed such deductions on a past tax return should file an amended return as soon as possible to limit possible interest and penalties on top of any taxes they might owe.

To find out more about home-based business tax avoidance schemes, order IRS Document 01300 (02-2002) by calling 1-800-829-2437, or visit www.irs.gov.