

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171, subsection (g) of section 658 and subsection (a) of section 697 of the Tax Law, the First Deputy Commissioner of Taxation and Finance, being duly authorized to act in the absence of the Commissioner of Taxation and Finance, hereby proposes to make and adopt the following amendments to the New York State Personal Income Tax Regulations under Article 22 of the Tax Law, as published in Subchapter A of Chapter II of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to read as follows:

Section 1. The unlettered paragraph in section 153.6 of these regulations is amended to read as follows:

An individual who is an income tax return preparer (see section 158.12(d)(1) of this Title), with respect to a New York State income tax return or a claim for refund, must [manually] sign such return or such claim for refund in accordance with the provisions of section 158.12 of this Title and forms [and], instructions, or other appropriate guidance of the Department of Taxation and Finance.

Section 2. Paragraph (1) of subdivision (a) of section 158.12 of these regulations is amended to read as follows:

(1) For purposes of section 658(g)(1) of the Tax Law, which requires the signature of a tax return preparer on certain returns and claims for refund, such tax return preparer must [manually] sign such return or claim for refund (which may be a duplicate) in the appropriate space provided on the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature. The preparer shall sign the return or claim for refund in the manner prescribed in forms, instructions, or other appropriate guidance of the Department of Taxation and Finance. Also, in accordance with section 658(g)(2) of the Tax

Law, which requires tax return preparers to include identifying numbers on certain returns and claims for refund, any such return or claim for refund prepared by a tax return preparer shall bear such identifying number (i.e., social security number, federal preparer tax identification number and/or employer identification number) necessary for securing proper identification of such preparer, such preparer's employer, or both, as may be required by forms and instructions of the Department of Taxation and Finance. [An individual preparer may not satisfy these requirements by use of a facsimile signature stamp or signed gummed label.] Where the preparer is unavailable for signature, another preparer must review the entire preparation of the return or claim for refund and then must [manually] sign such return or claim for refund and furnish the identifying number(s) required by section 658(g)(2) of the Tax Law.

Section 3. Subparagraphs (i) and (ii) of paragraph (4) of subdivision (a) of such section is amended to read as follows:

(4)(i) The [manual] signature requirement of this subdivision may be satisfied by a photocopy of a duplicate of the New York State income tax return or claim for refund, which duplicate is [manually] signed by the preparer after completion of such return's or such [claim's] claim for [refund] refund's preparation. After a duplicate of the New York State income tax return or claim for refund is signed by the preparer and before such return or such claim for refund is photocopied, no person other than the preparer may alter any entries on such duplicate other than to correct arithmetical errors discernible on such return or such claim for refund. The employer of the preparer or the partnership in which the preparer is a partner, or the preparer (if not employed or engaged by a preparer and not a partner of a partnership which is a preparer), must retain the [manually] signed duplicate of the New York State income tax return or claim for refund. A record of any arithmetical errors corrected must be retained by the person required to retain the [manually] signed duplicate of the New York State income tax return or claim for refund and be made available upon request by the Department of Taxation and Finance.

(ii) Where mechanical preparation of the New York State income tax return or claim for refund is accomplished by computer not under the control of the individual preparer, then the [manual] signature requirement of this subdivision may be satisfied by a [manually] signed attestation by the individual preparer attached to such return or such claim for refund that all the information contained in such return or such claim for refund was obtained from the taxpayer and is true and correct to the best of such preparer's knowledge, but only if such information (including any supplemental written information provided and signed by such preparer) is not altered on such return or such claim for refund by another person. For purposes of the preceding sentence, the correction of arithmetical or clerical errors discernible from the information submitted by the preparer does not constitute an alteration. The information submitted by the preparer must be retained by the employer of the preparer or by the partnership in which the preparer is a partner, or by the preparer (if not employed or engaged by a preparer and not a partner of a partnership which is a preparer). A record of any arithmetical or clerical errors corrected must be retained by the person required to retain the information submitted by the preparer and be made available upon request by the Department of Taxation and Finance.

Dated: Albany, New York
March 22, 2005

Barbara G. Billet
Executive Deputy Commissioner of Taxation
and Finance