

E-Filing Mandates and Compliance New York's Experience

FTA E-File Symposium May 2, 2012

Electronic Filing in NYS

Personal Income Tax: Available 1993, mandates began in 2006

Corporation Tax: Available 2007, mandates began in 2008

Sales Tax: Available 2008, mandates began in 2010

Withholding Tax: Available 2007-8, mandates began in 2008

E-file Rates				
Тах Туре	2009	2010	2011	Q1 2012
PIT	58%	60%	71%	86%
Corp	25%	33%	60%	81%
Sales	10%	29%	61%	77%
WH	19%	24%	37%	43%

Need to Reduce Spending/Staffing

- In 2011, NYS DTF processed more than 12 million personal income tax returns/extensions (about half of total 26 million returns for all taxes).
- Outsourced paper processing costs more than \$40 million annually for all taxes (returns, extensions, payment vouchers).
- Paper returns take more staff time. Year to date, exception rates are 1.5% for paper and 0.5% for e-filed income tax returns.

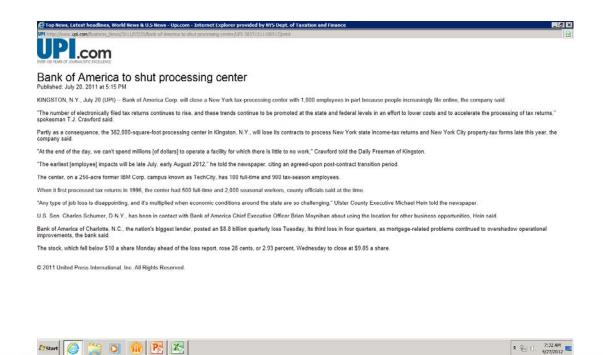
End of Bank Contract

Daily Freeman

Bank of America to stop processing income tax returns at TechCity

Published: Tuesday, February 15, 2011

... the electronic filing of income tax returns has reduced the need for much of what has been done at TechCity over the years.



E-file Mandate for Personal Income Tax

As of 2011 filing season:

- •Mandated e-file for tax return preparers filing more than 100 returns
- If a taxpayer or preparer has reasonable cause not to efile, they must maintain adequate documentation and provide it to DTF if they receive a penalty bill for failing to efile.
- Once a preparer is subject to the mandate, it continues to apply in all following years, even if they no longer meet the threshold.
- If a return can't be e-filed (software or DTF website does not support e-filing), then it isn't required to be e-filed.

In 2011 Filing Season

No separate fee for New York State e-filing

- Tax practitioners and software developers are prohibited from charging a separate fee for filing a return electronically.
- Penalties
 - \$500 per return-first occurrence
 - \$1,000 per return-each subsequent occurrence

In 2011 Filing Season

No Client Opt Out

- "Opt out" removed as of January 1, 2011.
- Previously clients could choose to opt out of e-file for any reason.
- A client's request to "opt out" of e-file is no longer "reasonable cause" for not complying.

New E-file Provisions for 2012

Preparer

■E-file mandate starting January 2012 for tax preparers filing more than <u>5</u> documents in years starting January 2011 (down from 100 returns)

New E-File Provisions for 2012

Individual

- DTF required to report by Sept. 15, 2011 on the percent of individual taxpayers who e-filed 2010 personal income tax returns through Aug. 31, 2011.
- If the e-file rate was less than 85%, new mandate for individual taxpayers would go into effect.

New Mandate for 2012

Individual

- If an individual taxpayer prepares an income tax return using tax software, he or she must e-file that return.
- \$25 penalty for failure to file electronically, unless the taxpayer can show that the failure was due to reasonable cause

E-file Mandates - New Penalties for 2012

- New penalty for self-filers or clients failing to e-file:
 - \$25 penalty per income tax document
 - \$50 per other tax document
- A paper document is subject to the penalty for failure to file a return or report (this doesn't apply to individual income tax documents).
- Any overpayment claimed on a paper tax document that was required to be filed electronically will not be eligible to receive interest until it's filed electronically.

New E-File Provisions for 2012

- New mandate provisions for individual taxpayers and tax return preparers were due to sunset on December 31, 2012.
- Prior e-file mandate rules would be restored as of January 1, 2013.

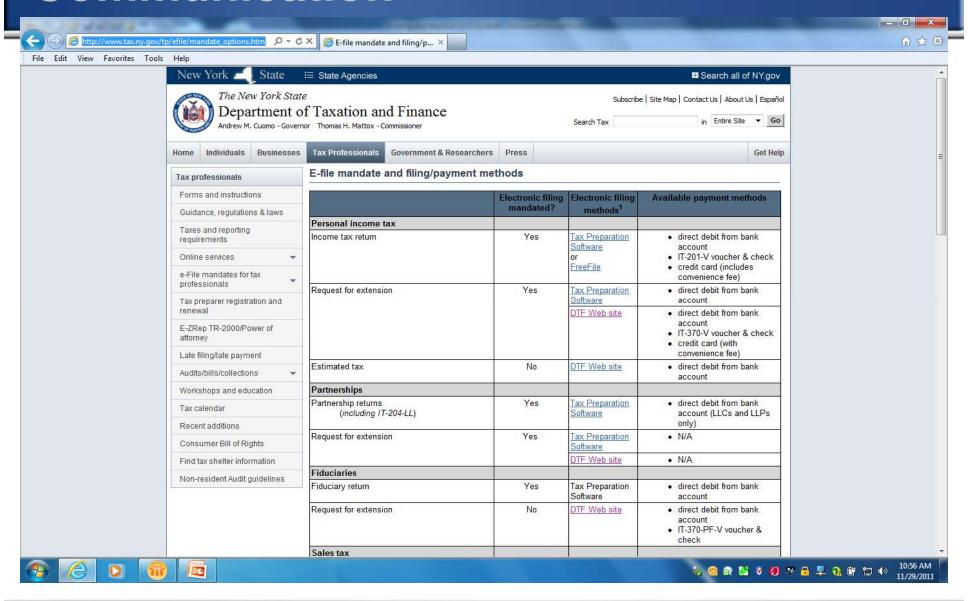
Implementation

- Temporary authority for new mandates and penalties
- Focus on communication to promote voluntary compliance
- Identify preparers with poor track record of e-file mandate compliance and use penalties to change filing behavior

Communicating the 2012 Mandates

- Collaborate with software developers on messages to taxpayers
- Subscription service e-mails and notices
- Web site
- Outreach events
- Newsletter articles
- YouTube video
- Twitter

Communication



Communication



Compliance Initiative

- Goal: To change filing behavior, not to collect revenue for New York State
- Focus on tax preparers that file a significant percentage of returns on paper, although eligible for e-filing
- Building on our 2010-11 experience in issuing penalty assessments to preparers who appeared not to be in compliance with the Corporation Tax e-file mandate.

Compliance Initiative

- Look-back at preparer filing patterns for 2011
- Penalty assessment of \$50 per return not e-filed
- If tax preparer shows reasonable cause not to e-file, or substantial compliance with mandate, bill is cancelled

Compliance Initiative - Results

Random spot-check on 50 noncompliant preparers that were billed for failure to e-file for 2011 tax season:

- Last year, they filed 90% or more of their income tax returns on paper.
- In 2012, about 60% are electronically filing 90% or more of their income tax returns.
- Overall for the 50, we saw an increase in e-file performance of 62%.

2012 E-filing Results To Date

- 90% e-file rate for primary income tax forms for Tax Year 2011
- Compares to 83% at the same time last year
- Tax professional e-filing up 8% from previous year
- Individual self-prepared e-filing up 21% from previous year
- Varied perceptions of the mandate

Legislative Changes in 2012

- Repealed the \$25 penalty for individual failure to e-file
- Extended the sunset date for the new 2012 mandate provisions for one year, through 2013
- Changed the threshold for the preparer e-file mandate from "more than 5 tax documents" to "more than 10 different taxpayers"

Challenges Ahead

- MeF and transition to new front-end processor
- Striking the right balance on e-file compliance efforts
- Continuing to improve and meeting demands for electronic filing, online services and customer support
- Advocating for permanent statutory authority



Margaret Sherman Deputy Commissioner Office of Processing & Taxpayer Services NYS Department of Taxation and Finance

Margaret.Sherman@tax.ny.gov 518-457-1000

www.tax.ny.gov