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Notice 2020-70: Electronic filing of Form 1040-NR allowed in certain instances

The IRS today released an advance version of Notice 2020-70 that generally removes Form 1040-NR from the list of returns that are exempt from the electronic filing (e-file) requirement imposed on specified tax return preparers—i.e., tax return preparers who prepare more than a relatively de minimis amount of tax returns.

Notice 2020-70 [PDF 29 KB] removes Form 1040-NR, *U.S. Nonresident Alien Income Tax Return,* from the list of returns that are administratively exempt from the e-file requirement imposed on specified tax return preparers under section 6011(e)(3) and Reg. section 301.6011-7(b).

Summary

Notice 2011-26 sets forth the specific administrative exemptions to the e-file requirement under section 6011(e)(3) and Reg. section 301.6011-7(b) for certain classes of specified tax return preparers or certain types of individual income tax returns. Notice 2011-26 provides a list of the exempt returns that includes Form 1040-NR.

According to Notice 2020-70, the IRS e-file limitations that previously prevented the electronic filing of the Form 1040-NR have been resolved. Therefore, the e-file limitations no longer apply to the Form 1040-NR except for the following situations (that is, the return cannot be filed electronically):

- Dual-status taxpayers (taxpayers who have changed status between resident alien and nonresident alien during the tax year)
- Fiscal-year taxpayers
- Trusts
- Estates

The exemption for Form 1040-NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents,* also remains in effect.

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Notice 2020-70 states that it does not affect the exemptions provided in Notice 2011-26 for certain categories of specified tax return preparers, such as certain foreign tax return preparers.

Future changes to the filing exemptions in Notice 2011-26 will be announced in IRS Publication 4164, *Modernized e-File (MeF) Guide for Software Developers and Transmitters*, or a successor publication. Updates to all other administrative exemptions described in Notice 2011-26 (aside from exemptions due to IRS e-file limitations) will continue to be announced in an IRS notice or other appropriate guidance, rather than in IRS Publication 4164.

Notice 2020-70 is effective for tax years ending on or after December 31, 2020.

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