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**11.3.6.1 (06-22-2005)  
Background**

1. 26 U.S.C. section 7514 authorizes seals of office.
2. 26 CFR section 301.7514-1 governs the use of seals and describes and illustrates the seals. Further information is contained in Deputy Commissioner Wenzel's memorandum of May 25, 2001.
3. The seals of office are used to issue certifications in authentication of originals or copies of Internal Revenue Service (IRS) records.
4. 26 CFR section 301.7622-1 authorizes the Commissioner to designate persons who may issue certifications as necessary to administer Internal Revenue laws and regulations.
5. Delegation Order 11-5 designates the persons who may issue certifications and provides for the redelegation of this authority.
6. Each seal of office will be in the custody of the officer for whose office it was established. It may be placed in any location convenient to its use.
7. Certifications may be issued only for records in the custody of the certifying officer.

**Note:**

The certifying officer cannot attest to something he/she has not observed. Therefore, it is usually inappropriate to rely upon the oral "assurance" of other IRS personnel that the document being certified is a true and correct copy of the original.

8. Seals of office may be affixed to certifications issued for any purpose, including 28 U.

S.C. section 1733(b), Rule 44 of the Federal Rules of Civil Procedure and Rule 27 of the Federal Rules of Criminal Procedure.

9. Officers are not authorized to issue certifications of copies of records which may be furnished only by the Commissioner, pursuant to Executive Order, Treasury Decision or the Statement of Procedural Rules.
10. No seal will be affixed to material to be published in the Federal Register.

### **11.3.6.2 (06-22-2005)** **Requesting Certifications**

1. Any member of the public may request certification of a document. However, neither the Freedom of Information Act, 5 USC 552, nor the Privacy Act 5 USC 552a, requires that certifications be provided to a requester. Requests for certification should ordinarily be sent to the office which has custody of the records (i.e., Headquarters, area, territory or campus). The Form 4506, *Request for Copy of Tax Return*, provides for the certification option when returns are provided pursuant to that process.
2. Fees for certification are provided in IRM 11.3.5, Fees. There are no fees when certification is provided for another government agency.
3. The two formal processes for certification (discussed below), require a completed Form 2866, *Certificate of Official Record*. Use of the formal processes for certification is not mandatory.

#### **Example:**

Acceptable wording for an inked stamp is:

**"AUTHENTIC IRS REPRODUCTION, per IRC section 6103(p)(2)(C).**  
" "This photocopy has the same legal status as if it were the original."

4. With the exception of the circumstances described in IRM 11.3.35.10(10), providing documents in lieu of testimony, the ink stamp method is the only type of certification that will be done for non-government requesters. If other situations arise that would appear to require one of the formal processes for certification, they should be discussed with the Director, Office of Disclosure.

### **11.3.6.3 (06-22-2005)** **Form of Certification and Preparation of Forms**

1. Form 2866 is available for authenticating the original or copies of records.
2. Offices preparing a large volume of certifications for use by other agencies may, at their option, employ suitable continuous feed printout paper instead of printed Forms 2866, if necessary to make the most effective use of word processing equipment. The resultant certifications should contain identical wording to that which would appear on an original Form 2866. Entries should be arranged in substantially the same sequence and layout as on Form 2866. The original and copies should be processed in a similar manner as provided below for certifications utilizing Form 2866.
3. Electronic versions of the Form 2866 are also acceptable if they meet the standards of (2) above.
4. The use of blue paper for Form 2866 is not mandatory and the form is no longer preprinted on blue paper. Electronic versions of Form 2866 may however be printed on blue paper as long as they meet the standards of (2) above.

### **11.3.6.4 (06-22-2005)** **Preparation of Original Form 2866**

1. This subsection contains procedures for preparing the original Form 2866.

**11.3.6.4.1 (06-22-2005)****Documents not Prepared for Submission in Court**

1. For documents that are not prepared for submission by the government in court, or for which "blue ribbon" certification is not requested, the Form 2866 is prepared as follows.
2. Immediately after the phrase "I certify that the annexed:" insert a statement similar to the following:
  - Is the original. . .; or
  - Is a true copy of. . .; or
  - Is an exact transcript of. . .; or
  - Is an exact transcript of an electronically filed return (without signature document). . .
3. Immediately after the statement shown above, insert the identification of the record, which may include items such as:
  - the form number and title of the record,
  - the name of the taxpayer,
  - the date of the record,
  - the name of the signer of the record,
  - the type of tax and tax year involved, and/or
  - any other feature by which the record would normally be identified.

**Note:**

Electronically filed returns may consist of the electronic record as well as a paper form containing the signature (e.g., Form 8453, *U.S. Individual Income Tax Declaration for an IRS e-file Return*). In such cases, the complete return cannot be certified without including all pertinent parts of the return. However, should it be impossible to locate the Form 8453 or equivalent, it is permissible to certify the electronic transcript (TRPRT) alone as long as it is correctly described as in (2) above. The transcript alone cannot be certified as the "return."

**Note:**

Substitutes for returns are not "returns," but rather constitute return information. The certification of an SFR should state something to the effect that it is "A Substitute For Return package prepared by IRS." The substitute for return may not be a traditional tax return, but may consist of one or more documents that together support the assessment of tax. In these cases, it will be especially important to appropriately identify on the Form 2866 the document(s) being certified. See (5) and (6) below.

4. Material requested with respect to documents submitted as a return but which do not constitute a valid return should be identified as being a true copy of a document "purported to be an income tax return)," or "submitted to the IRS," or wording to that effect.
5. Identifications should generally be brief and include only such details as are necessary to identify the record. They should not attempt to describe, characterize, or comment upon the record, which should be permitted to speak for itself.
6. Any attachments should be similarly identified, unless they are so extensive as not to warrant separate identifications, in which case, the number of attachments may be

stated.

**Example:**

The identification should end with the phrase ". . . consisting of . . . pages."

7. There should be no punctuation after the last word of the identification (usually "pages" ). Instead, a line should be drawn from the last word to the right margin (generally about one inch from the edge of the paper) and then diagonally to a point just above the first "u" in the phrase "under the custody of this office."
8. The name and title of the certifying officer is placed beneath the phrase "By direction of the Secretary of the Treasury," leaving sufficient space for the signature.
9. Separate certifications are made for each document which normally has an independent identity.

**Example:**

An administrative file must be certified separately from the return.

**Note:**

Separate certifications are made for each taxable year involved unless the document pertains to multiple years.

10. Records which are normally associated, such as schedules and attachments, are certified together.
11. Original and amended returns for the same tax year are certified together.
12. After signature, the dates are inserted. A gummed or self-sticking notarial seal is placed in the lower left corner of Form 2866. For all certifications used in IRS tax (Title 26) cases, the seal cannot be pre-embossed as it must be "raised" through the Form 2866. For certifications that will be used in non-tax (i.e., non-Title 26) matters, a pre-embossed seal may be used as long as the consumer has agreed to accept the pre-embossed seal. The stamp of the office of the certifying official is the stamp to be used for the embossing.
13. The records being certified are stapled behind the Form 2866, along the upper left corner, taking care not to obliterate any portions of the record.

**11.3.6.4.2 (06-22-2005)**

**Preparation of Documents for Submission in Court**

1. When requested, the preparation of a Form 2866 for submission by the government in court, is as follows.
2. Follow the steps in IRM 11.3.6.4.1(2) through (12).
3. The Form 2866 is placed as the top sheet of the document with the official record (e.g., Form 4340, *Certificate of Assessments and Payments*, or equivalent) as the remaining pages of the document.
4. In the upper left hand corner, an eyelet (a type of grommet) is pressed through all pages of the document (using e.g., Bates M-40 Eyeleter, UPC #14132 and Bates ELTSIC Eyelet, brass, short for up to 18 pages, UPC #00702) taking care not to obliterate any portion of the record.
5. A blue ribbon is run through the eyelet and tied. A blank gummed or self-sticking notarial seal is placed over both ends of the ribbon in the lower left corner of Form 2866.
6. The document is sent to the authorized official or his or her delegate in a "Confidential

Information" envelope.

7. The authorized officer dates and signs the Form as well as, when relevant, the official record (e.g., Form 4340 or equivalent) and the authorized officer embosses the appropriate seal (see Treasury Regulation Section 301.7514-1) through the blank notarial seal and the Form 2866. See IRM 11.3.6.1(2).

#### **11.3.6.4.3 (06-22-2005)**

##### **Preparation of Copies of Certifications**

1. Each office issuing certifications must retain a file copy of the certification, together with any appropriate background information.
2. The copy of the certification should show all the entries appearing on the original, except the seal of office.
3. Forms 2866-A and 2866-B of the certification assembly are intended to serve as copies. However, offices finding it more efficient to do so may utilize a carbon copy produced by word processing equipment or a photocopy or PDF file of the original certification. Forms 2866-A and 2866-B need not be prepared and maintained if the requirements of this section can be otherwise met.
4. The background file should identify the intended recipient (taxpayer or agency) for whom the certification is being prepared. This information may be entered on the copies of the certification or in a history sheet or it may be documented by correspondence in the file.
5. The background file should identify by name and title the employee responsible for requesting the certification, preparing the package and retrieving the records. A block calling for signature, title and Division, Area or Territory is provided for this purpose on Forms 2866-A and 2866-B. This block may be utilized for this purpose or the information may be placed elsewhere on the copy or recorded in the background file.
6. The information required by (4) and (5) above must be readily available to the official signing the certification and must be readily researchable in the event of some future inquiry. As this information will appear only on the IRS retained copies or background files it may be typed, handwritten or rubber stamped.
7. Requests for certification may arise in connection with various activities on which files are maintained. The copy of the certification and any background information would generally be incorporated with such existing files. It is not intended that a separate file of certifications be maintained.
8. Forms 2866-A or 2866-B may be utilized to provide a copy of the certification to another office or another function having interest in the case.

#### **11.3.6.5 (06-22-2005)**

##### **Standards for Certifications**

1. Every certification of records inherently involves a disclosure of official records. The preparation of a certification file should include any necessary analysis of the request and evaluation of the records to ensure that any disclosure being made is properly authorized.
2. Personnel preparing certifications should make certain that all evidentiary requirements are being observed. Copies of records must accurately portray the originals and be free of any distortions, flaws or illegibilities not present in the original.
3. Certifications must conform to the standards of the court when production in court is to be made.

##### **Example:**

Redaction of certain entity information must be made when providing certifications for certain bankruptcy proceedings. The Form 2866 description of the certified document

must contain language encompassing the required redactions/alterations.

4. Records being certified must be known to originate in official IRS files.
5. Occasionally, individuals will request certification of their copy of a return or will request certification of a document in their possession which is alleged to have been previously obtained from the IRS. Such requests must be refused. The requester may be advised on how to request certification of an original record in the IRS's custody instead.
6. Any office may certify the authenticity of any IRS record, even though the record may have originated in or ordinarily be in the custody of another office. The office issuing the certification must, however, have physical possession of the record and be aware of how such record came into its possession.
7. When a record for which certification is requested is located in another office, it is generally preferable to transfer the request to the office having possession of the record, than to transfer the record to be certified elsewhere.
8. The officer certifying the authenticity of a record is responsible for reviewing the file and comparing the copy with the original and assuring himself/herself of its accuracy and authenticity before signing. However, where written audit trails (with appropriate IRS personnel attestations) are available that provide the same degree of assurance, possession of the original may be waived. Such situations should be rare (e.g., voluminous active files, from an office where nobody with certification authority is located, need to be certified).

#### **11.3.6.6 (06-22-2005) State Department Certifications**

1. Foreign countries occasionally request that United States taxpayers obtain State Department certification of the authenticity of IRS documents. The State Department will not affix their seal to a document bearing the seal of a field office. In these cases, the documents should be authenticated and forwarded to Headquarters. The Director, Office of Governmental Liaison and Disclosure will affix the seal of the Department of the Treasury.

#### **11.3.6.7 (06-22-2005) Foreign Certifications**

1. As part of the proof of residence in the United States and of entitlement to certain benefits under tax treaties, the applicant must usually provide a foreign withholding agent with a U.S. Government certification of U.S. residency. In the past, the IRS certified on a Form 6166, *Certification Program Letterhead*, that a U.S. tax return had been filed. Now the IRS certifies that, to the best of our knowledge, the taxpayer is a resident of the U.S. This certification is provided on Form 6166, and is processed and printed on secure paper controlled by the Philadelphia Campus. Any other version of this form will not be accepted by our treaty partners. Taxpayers requesting certification of U.S. residency for purposes of obtaining treaty benefits should direct their request to:

Philadelphia Campus  
Foreign Certification Request P.O. Box 16347  
Philadelphia, PA 19114-0447

or by fax: 215-516-1035.

2. In the past, special arrangements had been made with some countries for individualized certification language or the signing of forms issued by other governments. All such forms should be referred to the Foreign Certification Unit at the Philadelphia Campus.

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#### **11.3.6.8 (12-31-2001) Legal Status of Reproductions**

1. IRC section 6103(p)(2)(C) provides that any reproduction made in accordance with such section of any return, document, or other matter shall have the same legal status as the original and requires that any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding, as if it were the original, whether or not the original is in existence.

#### **11.3.6.9 (12-31-2001)** **Judicial Notice of Seals**

1. IRC section 7514 provides that judicial notice shall be taken of the seals.

#### **11.3.6.10 (06-22-2005)** **Certification as to Lack of Records**

1. Occasionally certain applicants, usually the Department of Justice, request certifications from the IRS as to the lack of records for use in court proceedings. Form 3050, *Certification of Lack of Record*, should be used for this purpose using the embossed seal procedures detailed in IRM 113.6.4.1(12). Where questions concerning the use of this type of certification cannot be resolved in the field office, the matter should be referred to the Director, Office of Governmental Liaison and Disclosure.
2. To prepare a Form 3050 regarding the lack of a return where a substitute for return has been filed or the IDRS transcript shows that an SFR has been established, locally used procedures can be developed, but one acceptable approach is to state in the Form 3050 space for "Kind of Tax Form," the words "Form 1040 duly completed, executed, and filed by the taxpayer."
3. It must be remembered that a Form 3050 is interpreted to mean that IRS does not have evidence of a record as of the date the Form 3050 is signed. This is very important when responding to ex parte orders under IRC section 6103(i)(1) or (i)(7) (C). Such orders have a specified cut-off date for disclosure of information coming into IRS. Forms 3050 must be prepared in such a way to avoid any inference that IRS records indicate a lack of record after the cut-off period. See IRM 11.3.28, Disclosure to Federal Agencies for Administration of Nontax Criminal Laws.

#### **11.3.6.11 (06-22-2005)** **Unauthorized Use of Seal**

1. Federal law (18 U.S.C. section 1017) prohibits the fraudulent or wrongful certification of documents and the knowing use, sale or transfer of any documents fraudulently or wrongfully certified. Violators are subject to a fine and/or imprisonment of up to five years.

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