

**MEMORANDUM OF UNDERSTANDING
Form 1041 Modernized Electronic Filing
Federal/State Program**

Between

Internal Revenue Service

And

(Name of State Tax Agency)



**Internal Revenue Service
Wage and Investment Division
Submission Processing
e-File Services**

ARTICLE I: INTRODUCTION

This Memorandum of Understanding (MOU) between the IRS and the **[Name of State Tax Agency]** (hereafter referred to as the Agency) for **[Name of State]** (hereafter referred to as State) sets forth the agreement of the parties with respect to the IRS Modernized Electronic Filing (MeF) Federal/State Program for estates and trusts (hereafter referred to as the 1041 MeF Fed/State Program).

ARTICLE II: AUTHORITY

This MOU is entered into between the IRS and the Agency pursuant to the authority vested in the Commissioner of IRS to enforce and administer the internal revenue laws and pursuant to Internal Revenue Code (IRC) Section 6103(d), which authorizes the disclosure of Federal returns and return information. This MOU is supported by the Agreement on Coordination of Tax Administration (“Basic” Agreement) between the IRS and the Agency executed by the IRS on **[DATE]** and the Memorandum of Implementation of the Agreement on Coordination of Tax Administration (“Implementing” Agreement) between the IRS and the Agency, executed by the IRS on **[DATE]**.

ARTICLE III: PURPOSE OF DOCUMENT

The purpose of this MOU is to define the general administrative, procedural, and technical framework which permits the IRS and the Agency to participate in the 1041 MeF Fed/State Program. In terms of the MOU, the IRS address is IRS, 1041 MeF Fed/State Program, Stop 1265 AUSPC, 3651 S. IH 35, Austin, TX 78741.

ARTICLE IV: CONCEPT OF OPERATIONS

The general concept is to leverage current operations on the IRS MeF platform used for the electronic filing (e-File) of Federal corporate, partnership, and individual income tax returns and to modify these operations to the extent necessary to accommodate the transmission of State estate and trust tax returns (hereafter, referred to as State returns) through the IRS to the Agency and status information from the Agency to the IRS. It is the intent of the IRS to function primarily as a data conduit between the transmitter and the Agency.

In the 1041 MeF Fed/State Program, the term “data conduit” is used to define the following:

- A process to receive, temporarily store, and then make available for Agency retrieval and processing the State return(s) linked with a Federal return that has been accepted by the IRS, or the unlinked State returns that have been transmitted through the IRS system.
- A process to receive, temporarily store, and then make available to the transmitter status information for State returns.

The key software design strategy is to separate and encapsulate the Federal and linked State return data in logically distinct return submissions (Federal submission and State submission). The Federal submission contains only that data pertaining to the Federal estate and trust income tax return. The linked State submission contains all the information needed for filing the State return. If the State return is linked with a Federal return, there will be a pointer from the State submission to the linked Federal submission.

The State submission consists of a manifest and payload. The purpose of the manifest is to provide identifying information about the State submission and provide information that the IRS needs to perform limited validation. The State submission manifest schema is issued by the IRS and can be found in the estate and trust MeF schema package on the IRS website (www.irs.gov). The payload includes the State Extensible Markup Language (XML) data as defined by the State schema, binary attachments, if applicable, and the Federal information required to be attached to the State return.

The following requirements must be followed:

- The Federal tax return data must be submitted in XML format as specified by the IRS and agreed to by the Tax Information Group for e-Commerce Requirements Standardization (hereafter, referred to as TIGERS).
- The State return data must be submitted in XML format as specified by TIGERS and agreed to by the IRS and the Agency.
- The return data in a submission must be in Zip Archive format, as specified by TIGERS.

Additional information regarding these and other requirements can be found in Publication 4164, *Modernized e-File Guide for Software Developers and Transmitters*, and on the IRS website (www.irs.gov).

ARTICLE V: IRS MAJOR ROLES AND RESPONSIBILITIES

1. The IRS will make available the following reference documents on the IRS website (www.irs.gov):
 - Publication 3112, *IRS e-File Application and Participation*
 - Publication 4163, *Modernized e-File Information for Authorized IRS e-File Providers for Business Providers*
 - Publication 4164, *Modernized e-File Guide for Software Developers and Transmitters*
 - Revenue Procedure 2007-40 issued via IRM Bulletin 2007-26
2. The IRS will provide notices, information, and updates to the Agency on the 1041 MeF Fed/State Program through the Quick Alerts Messaging System and/or email. Updates to the IRS publications mentioned above will be available to state agencies

and electronic filers (software developers, transmitters, and electronic return originators) through the IRS website (www.irs.gov).

3. The IRS will continue to make available to all state agencies a separate extract of the Third Party Data Store, which contains electronic filer information for those Authorized IRS e-File Providers. (The IRS disclosure of applicant information to the Agency does not constitute a disclosure under IRC 6103(d)).
4. The IRS will provide the Agency with specific IRS contact points.
5. The IRS will determine the test procedures for the Federal Assurance Testing System (ATS). The IRS will publish one or more 1041 MeF Fed/State scenarios on the IRS website (www.irs.gov).
6. The IRS will indicate receipt of the State submission by sending a receipt notification to the transmitter. This is not an acknowledgement of acceptance or rejection of the State return, only an indication that a State submission was received by the IRS.
7. The IRS will perform certain validations, as described in Publications 4163 and 4164, before the State submissions are made available to the Agency.
8. The 1041 MeF Fed/State Program will only be available using Web Services Application to Application (A2A) communications between MeF and state systems.
9. The IRS will store the State return on-line in MeF for one year from date of receipt. The IRS will store State acknowledgements on-line for one year. The IRS functions as a conduit for the State electronic returns and State acknowledgements. The IRS will not retain a permanent record of these files, and will immediately notify the Agency when any change takes place in the length of time for data storage.
10. The IRS will make available, upon request of the Agency, electronic reports of State returns received, rejected, and made available to the Agency.
11. The IRS disaster recovery plan for MeF stipulates that if MeF is not available, 1041 MeF Fed/State filing will be temporarily discontinued until program changes can be made at the backup site to allow for 1041 MeF Fed/State filing. The IRS will notify the Agency of a MeF shutdown and of the resumption of the 1041 MeF Fed/State Program at a backup site. The IRS will support electronic transmission of Federal and State submissions to the backup site and Agency retrieval from the backup site.
12. The IRS will notify the Agency of any MeF downtime of more than four hours (both scheduled and unscheduled) and will provide the anticipated timeframe for the system to be back up. The MeF system status, maintenance periods, and end of year cutover times are posted on the MeF status page via the IRS website (www.irs.gov).

13. The IRS will acknowledge disposition of the Federal submission before processing linked State submissions included in the same transmission. Once an accepted Federal acknowledgement is generated, the linked State submission will be processed and made available for the Agency to retrieve.
14. The IRS will accept State submissions from any filer who is accepted as an Authorized IRS e-File Provider.
15. The IRS will safeguard and maintain the confidentiality of the State return filing.
16. The IRS e-help Desk will provide information on the status of a State return (Received, Ready for Pick Up, Sent to Agency, Received by Agency, Acknowledgement Received from Agency, and Acknowledgement Retrieved) but will not provide information on the acceptance or rejection of State returns.
17. The IRS will provide technical assistance for problems with Web Services transmissions identified through the IRS e-help Desk at the toll-free telephone number (866) 255-0654.

ARTICLE VI: PARTICIPATING STATE ROLES AND RESPONSIBILITIES

1. The Agency will adhere to the requirements listed for all electronic filers in Revenue Procedure 2007-40 or any subsequent revision, and will follow the procedures contained in Publication 3112 and the specifications contained in Publication 4164.
2. The Agency will provide final copies of its 1041 MeF Fed/State Program external procedures and requirement documents (such as forms, specifications, and instructions) to electronic filers.
3. The Agency will provide the IRS updates on the State electronic filing program as requested, such as an end-of-the-season report, and other requested information. The Agency will respond to all requests from the IRS in a timely manner.
4. The Agency will determine the data items in the State schema, which will be captured and transmitted by the electronic filer. The Agency will provide specifications and instructions to electronic filers for the preparation and transmittal of the State submission. The Agency will keep abreast of IRS changes in the 1041 MeF Fed/State Program via the IRS website, (www.irs.gov).
5. The Agency will provide IRS a point of contact.
6. The Agency is required to officially notify the IRS that it can successfully retrieve and process data from the IRS (completed testing) and that it is ready for production (live processing). A written notice, a phone call, or email should be provided to the 1041 MeF Fed/State Coordinator before startup.

7. The Agency is responsible for the Assurance Testing of the State requirements on the State data. If the Agency uses the IRS test package, the Agency will not disseminate the IRS test package information prior to IRS release. The Agency is responsible for determining and implementing the State test procedures to be followed on State returns.
8. The Agency will develop the capability to electronically retrieve all State submissions from the IRS through A2A. The Agency must use compatible computer hardware, software, and communication capabilities as specified in Publication 4164.
9. The Agency will retrieve the State return filing from the IRS within 48 hours of the IRS acknowledgement during the peak Filing Season. This requirement may be adjusted by the IRS so that state agencies with small volumes do not have to provide retrieval services during the weekend. Depending on volumes during the non-peak periods, the IRS retains the right to require retrieval within 48 hours. MeF is available on a seven day, 24 hour schedule from early January to late December. End-of-year cutover times and maintenance periods are posted on the MeF status page on www.irs.gov.
10. If the State processing system is down for more than five days, the Agency will contact the IRS regarding those problems.
11. The Agency will retrieve all State submissions available from the IRS.
12. The Agency is responsible for maintaining data integrity once the Agency receives a completed data transmission. The Agency is responsible for resolving subsequent errors of any type detected during Agency processing.
13. The Agency will notify the appropriate 1041 MeF Fed/State Coordinator of any changes to its mandated e-File program and provide anticipated increase in e-File volume.
14. The Agency is responsible for creating periodic back-up files.

ARTICLE VII: DATA VALIDATION

The data validation method for a Federal submission is defined in Publication 4164. The Agency shall define the data validation for a State submission in their publications.

ARTICLE VIII: DISCLOSURE, SAFEGUARDS, AND RECORDKEEPING REQUIREMENTS

The Agency will maintain Federal tax returns and return information separately from other information to the maximum extent possible to avoid inadvertent disclosures and to comply with the federal safeguards required by IRC §6103(p)(4). The Agency will also abide by all other requirements of IRC §6103(p)(4).

All information obtained under this MOU must be safeguarded in accordance with the Basic Agreement, the Implementing Agreement, as well as the safeguard requirements of IRC §6103(p)(4), as described in IRS Publication 1075, *Tax Information Security Guidelines for Federal, State, and Local Agencies and Entities*.

Federal and State returns will be sent to the IRS as complete and separate submissions. No data will be transferred or copied from one submission to another. The federal tax information that will be associated and provided in the zip file of data for State submissions will include:

- Taxpayer Identification Number (TIN) Status - The results of the TIN and name control validation. MeF checks the TIN and name control from the State submission manifest against the IRS e-file database and sets an indication of "Match," "No Match," or "Not Found."
- Source IRS Submission ID – The submission ID of the linked Federal return.

The IRC Section 6103(p)(8) governs any "wraparound" information received electronically by the State. Further, the provisions of IRC Sections 7213 and 7431 apply to all Agency officers and employees. The IRS disclosure accounting requirement is being met by an automated procedure.

State return submissions will only be made available to the Agency for the State identified in the "Government Code" data field within the submission manifest. There is no provision for participating state agencies to request or receive Federal tax return data from other state agencies using the capabilities of the MeF system.

If a participating Agency varies from the specified procedures, such as using a third party or agent to retrieve the State return filing from the IRS, review and approval must be obtained from the IRS prior to varying from the procedure. The third party must meet the disclosure requirements as cited above. The third party may use the Agency's ETIN and password.

ARTICLE IX: SECURITY

The IRS and the Agency shall carry out their respective responsibilities for ensuring information systems security and taxpayer privacy commensurate with the sensitivity of the information under their control. Revenue Procedure 2007-40, or any subsequent revision, is the legally binding document that contains the rules governing regulation of IRS e-File providers. Providers must comply with the provisions of the revenue procedure and all publications and notices governing IRS e-File referenced by this procedure including Publication 4164. Publication 4164 provides policies and guidance to be followed by IRS e-File providers to carry out their respective responsibilities in information systems security and privacy.

Registered users must provide true, accurate, current, and complete information. The IRS sensitive information used to access the Registered User Portal (RUP) including passwords, usernames, Personal Identification Numbers (PINs), and other such credentials used to manage the identity of registered users and systems for authentication purposes, must be protected and comply with the requirements set forth and agreed to by responsible parties as part of the IRS registration process. (Refer to the Password Management section of Publication 4164 for more information.)

Users shall immediately notify the IRS at (866) 255-0654 (international callers use (512) 416-7750) of any suspected unauthorized use of passwords or accounts, or any other breach of security. In the event of RUP login failure, registered users should immediately notify the IRS at the numbers mentioned.

It is agreed that when using the RUP, the user is accessing an Official United States Government System, which may be used only for authorized purposes. The Government may monitor and audit the usage of this system, and all persons are hereby notified that the use of this system constitutes consent to such monitoring and auditing. Unauthorized attempts to upload information, and/or change information on these websites, and any attempts to defraud the Government are strictly prohibited and subject to prosecution under the Computer Fraud and Abuse Act of 1986 and Title 18 U.S.C. Section 1001 and 1030.

ARTICLE X: PREVENTION OF FRAUD

The Agency will have in place effective external filing requirements and internal procedures to detect and prevent the processing of fraudulent or erroneous State returns. In conjunction with the prevention of fraud, it is the responsibility of the Agency to identify duplicate or erroneous State returns and to develop audit procedures to combat and control such situations.

The IRS and the Agency will explore opportunities for the coordinated detection of schemes to file fraudulent returns in both electronic and paper formats.

ARTICLE XI: SOFTWARE REQUIREMENTS AND ACCEPTANCE OF TAX PREPARATION SOFTWARE

The procedures and specifications for 1041 MeF Fed/State Electronic Filing are contained in IRS Publications 4163 and 4164.

The State tax information required by the Agency must be contained within the State publications. The Agency will determine and communicate to the software developers which data elements from the super schema should be included in the State submission.

The acceptance of tax preparation software is a shared responsibility. The IRS is responsible for determining whether a Federal tax return can be processed. The IRS is responsible for validating that the XML format is compatible with the IRS schema. Determination of the test procedures to perform the IRS software assurance testing is

the sole responsibility of the IRS. These test procedures are located on the IRS website (www.irs.gov).

The Agency will comply with the testing and acceptance process described in Publications 4163 and 4164. The Agency is responsible for determining and implementing the appropriate test procedures to be followed on State returns once these are accepted as meeting the IRS format requirements. The Agency understands that the IRS software developer testing does not replace the need for the State software developer testing. The IRS is responsible for receiving the test transmission, validating the data received, generating the IRS data for submissions that passed validation, and making the State submission available to the Agency for further testing.

ARTICLE XII: REJECTION/SUSPENSION OF AN ELECTRONIC FILER

If an electronic filer is suspended or rejected from the electronic filing program, the IRS will not accept Federal or State tax data from that filer unless the filer is reinstated through the administrative review process.

Information on the IRS monitoring, suspension, and administrative review process is contained in Publication 3112. Criteria for warning letters, suspensions, or rejections of electronic filers are also contained in Publication 3112.

The IRS will not suspend electronic filers for State infractions. The Agency may provide information about electronic filers to the 1041 MeF Fed/State Coordinator, if desired. The Agency may suspend a State electronic filer, but the IRS cannot prevent that filer from sending State returns through the IRS MeF System.

ARTICLE XIII: WITHDRAWAL AND SUSPENSION OF A PARTICIPATING STATE

The Agency may withdraw from the 1041 MeF Fed/State Program by submitting a written notice to the 1041 MeF Fed/State Coordinator. The IRS may suspend the Agency from the 1041 MeF Fed/State Program due to failure to meet the terms and conditions of this MOU.

ARTICLE XIV: COSTS

All hardware and software development costs incurred by the Agency are the responsibility of the State. All communication costs associated with transmitting a State return to the IRS and retrieving the State acknowledgement from the IRS are the responsibility of the transmitter. All costs associated with the retrieval of State tax information from the IRS by the Agency and transmitting a State acknowledgement are the responsibility of the Agency.

The IRS is responsible for all internal costs associated with the 1041 MeF Fed/State Program, including computer hardware and software. The IRS is responsible for

providing capacity to allow timely submission of State returns and access to State returns by the Agency.

ARTICLE XV: LIABILITY

Each party to this agreement shall be liable for the acts and the omissions of its own employees.

The IRS shall not be liable for any injury to another party's personnel, or damage to another party's property, unless such injury or damage is compensable under the Federal Tort Claims Act (Title 28 U.S.C. Section 1346(b)), or pursuant to other Federal statutory authority. Similarly, the Agency shall not be liable for any injury to another party's personnel or damage to another party's property, unless such injury or damage is compensable under applicable State or local law.

ARTICLE XVI: THIRD-PARTY RIGHTS

This MOU does not confer any rights or benefits on any third party.

ARTICLE XVII: PRIVACY

The IRS and the Agency will assure the integrity and accuracy of personal and financial data. The IRS and the Agency will perform their duties in a manner that recognizes and enhances individuals' rights of privacy and will make certain that their activities are consistent with law, regulations and good administrative practices.

ARTICLE XVIII: PERIOD OF UNDERSTANDING

This MOU is effective until it is officially terminated.

ARTICLE XIX: EFFECTIVE DATE

This MOU will become effective on the date of the last signature written below and remain in effect until officially terminated.

ARTICLE XX: AMENDMENT OF MOU

This MOU may be amended by deletion or modification of any provisions, provided that such amendment is in writing and is signed by all parties to the MOU.

ARTICLE XXI: TERMINATION OF MOU

This MOU may be cancelled upon ten (10) days written notice by either the IRS or the Agency or immediately by signed agreement of the IRS and the Agency.

ARTICLE XXII: LIMITATIONS

The terms of this MOU are not intended to alter, amend, or rescind any current agreement or provision of federal law now in effect. Any provision of this MOU which conflicts with federal law will be null and void.

ARTICLE XXIII: EVALUATION OF DATA EXCHANGE

The IRS and the Agency will review this MOU annually to evaluate the existing data exchange, examine the continuing needs for and uses of the exchanged data, and determine whether the provisions of this agreement require amendment or revision. The method of review (conference call, meeting, email) will be jointly determined by the IRS Governmental Liaison, Office of Disclosure, Office of Safeguards, Business Operating Division and the State Liaison.

ARTICLE XXIV: APPROVALS

It is agreed by the signatories that the IRS and the Agency will participate in the 1041 MeF Fed/State Program under the terms and conditions listed in this document.

INTERNAL REVENUE SERVICE:

Date: (Signature)

Name: Peggy Bogadi
(Printed)

Title: Commissioner, Wage and Investment Division

[Name of State Tax Agency] for [Name of State]

Date: (Signature)

Name: (Printed)

Title: