

Office of Chief Counsel
Internal Revenue Service
memorandum

CC:PA:01:JBremer
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date: July 17, 2014

to: Michael J. Oser
Supervisory Governmental Liaison
Office of Privacy, Governmental Liaison and Disclosure
Attn: Diane K. Austin

from: Blaise G. Dusenberry
Senior Technical Reviewer
(Procedure & Administration)

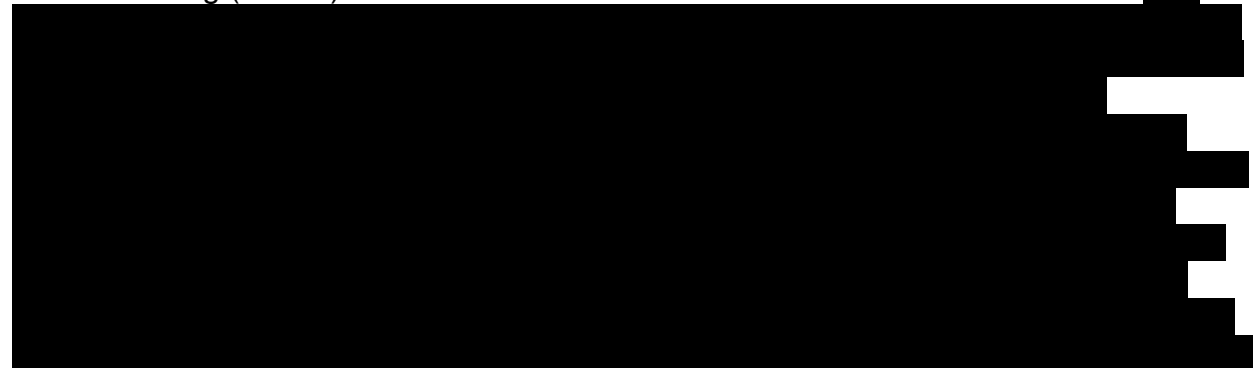
subject: Electronic Signatures on GL Agreements/MOUs

This memorandum responds to your inquiry regarding the use of electronic or digital signatures on certain federal and state governmental liaison agreements and memorandums of understanding. In this memorandum, we conclude that an electronic handwritten signature is legally sufficient for these agreements.

BACKGROUND

Due to the growing prevalence of remote management, we understand that the use of electronic signatures is a practical business decision that can enhance efficiency and reduce costs. Your concern is whether it is legal or appropriate to use electronic signatures on the types of agreements described below.

The Office of Privacy, Governmental Liaison and Disclosure manages the relationship between the Internal Revenue Service (the Service or IRS) and state government departments of revenue. One aspect of that relationship involves information exchange. Information exchanges are managed by the use of Agreements or Memorandums Of Understanding (MOUs) entered into between the Service and individual states.



[REDACTED]

[REDACTED]

[REDACTED]

You have stated that there are other project-specific memorandums of understanding, amendments, and other ad hoc agreements that arise from time to time. While we have not seen copies of these additional documents, we will assume for purposes of this

memorandum that these documents are very similar to the agreements described above.

ANALYSIS

The electronic form of signature is simply data representing a sound, symbol, or process that is made or adopted by a person with the intent to sign a document.¹ For purposes of this memorandum and its conclusion that certain types of electronic signatures are legally sufficient, we define an “electronic handwritten signature” as a method of signing an electronic message that (A) identifies and authenticates a particular person as the source of the electronic message; (B) indicates such person’s approval of the information contained in the electronic message; and (C) displays the signer’s signature pictorially either as a scanned image of the signer’s written signature or as the signer’s signature captured by use of a signature pad or written stylus device.

Electronic handwritten signatures as defined above are legally valid signatures. As a business practice, determining whether to utilize electronic handwritten signatures in a specific situation involves weighing the benefits of the convenience of using electronic signatures against the risk that a signer may disavow the document.

[REDACTED]

[REDACTED]

[REDACTED]

¹ *Buckles Management LLC. V InvestorDigs, LLC.*, 2010 U.S. Dist. LEXIS 73000, *13 (D. Col. July 20, 2010) (holding that electronic record was not signed where the alleged signature was not "executed or adopted by a person with the intent to sign the record").

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Your incoming email specifically suggested using a wet signature scanned into Adobe to create the electronic signature. Although we agree that such an electronic signature would be legally sufficient, as we discussed in our July 2, 2014 phone call

[REDACTED]

If you have any questions, please contact Jason Bremer.

By: _____
Blaise G. Dusenberry
Senior Technical Reviewer
(Procedure & Administration)

[REDACTED]