

MEMORANDUM OF UNDERSTANDING FOR THE

1040 MODERNIZED E-FILE FEDERAL/STATE ELECTRONIC FILING PROGRAM

BETWEEN

NEW YORK CITY DEPARTMENT OF FINANCE

AND

INTERNAL REVENUE SERVICE

ARTICLE I – PURPOSE OF DOCUMENT

The purpose of this Memorandum of Understanding (MOU) is to define the general administrative, procedural, and technical framework that permits the Internal Revenue Service (hereafter, referred to as the IRS) and the State tax agency (hereafter, referred to as the State) to participate in the 1040 MeF Federal/State Electronic Filing Program (hereafter, referred to as 1040 MeF Fed/State Program). In terms of the MOU, the IRS address is IRS, 1040 MeF Fed/State Program, Stop 1265 AUSPC, 3651 S. IH 35, Austin, TX 78741.

ARTICLE II – AUTHORITY

This MOU is entered into between the IRS and the State pursuant to the authority vested in the Commissioner of Internal Revenue to enforce and administer the Internal Revenue Laws. This authority includes the disclosure of Federal returns and return information in accordance with Internal Revenue Code section 6103(d).

ARTICLE III – CONCEPT OF OPERATIONS

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

In the 1040 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 State retrieval and processing the State return(s) linked to a Federal return that has been accepted by the IRS or the stand alone (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 attached State return data in logically distinct return submissions (Federal submission and State submission). The Federal submission contains only that data pertaining to the Federal individual income tax return. The associated State submission contains all the information needed for filing the State return. If the State return is associated with a Federal return, there will be a pointer from the State submission to the associated 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 1040 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 State agencies
- 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*.

ARTICLE IV – IRS MAJOR ROLES AND RESPONSIBILITIES

1. The IRS agrees to provide the following publications which contain 1040 MeF Fed/State instructions and specifications. These publications will not contain State specific documentation.

- Publication 3112, *IRS e-File Application and Participation*
- Publication 1345, *Handbook for Authorized IRS e-File Providers of Individual Income Tax Returns*
- Publication 1436, *Test Package for Electronic Filers of Individual Income Tax Returns*
- Publication 4164, *Modernized e-File Guide for Software Developers and Transmitters*

2. The IRS will provide notices, information, and updates to the State on the 1040 MeF Fed/State Program through the Quick Alerts Messaging System and/or email. Updates to the IRS publications mentioned above will be available to the State and electronic filers through the IRS website (www.irs.gov).

3. The IRS will continue to make available to all States a separate State 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 State does not constitute a disclosure under IRC section 6103(d)).

4. The IRS will provide the State with specific IRS contact points.
5. The IRS is responsible for determining the test procedures for the Federal Assurance Testing System.
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 below before the State submissions are made available to the State.

For **Fed/State returns** which are defined as a Federal submission and State linked submission(s) with the IRS Submission Identification Number (ID) referenced in the State manifest:

If the **Federal submission is rejected**, then the State submission will also be denied, and will not be sent on to the State. An acknowledgement with the reason for denial will be sent to the transmitter.

If the **Federal submission is accepted**, then IRS will validate the following on each linked State submission:

- The State can be identified in the State manifest
- The State indicated in the State submission is a State that is participating in the 1040 MeF Fed/State Program
- The Electronic Filer Identification Number (EFIN) indicated in the State manifest is a valid EFIN
- The linked IRS submission ID is that of an accepted Federal return
- The submission category provided in the State submission manifest matches the submission category of the linked Federal return
- At least one, of either the Primary Social Security Number (SSN) or Spouse SSN provided in the State submission manifest, matches at least one of either the Primary SSN or Spouse SSN provided in the return header of the linked Federal submission
- The Tax Year referenced in the State submission manifest matches the Tax Year of the linked Federal submission

If the **State data does not pass the validations listed above**, then the State return will be denied by the IRS and an acknowledgement with the reason for denial will be sent to the transmitter.

If the **State data passes the validations listed above**, then the MeF system takes the following actions:

- The MeF system checks the SSN and name control of the Primary Taxpayer (and Spouse if applicable) against the IRS SSN and name control database
- The MeF system associates the results of the SSN and name control check(s) with the State submission
- The MeF system stages the State submission for retrieval
- The MeF system provides a status of "Ready for Pick Up"

For **State Stand-Alone returns** which are defined as a State unlinked submission with no IRS Submission ID referenced in the State manifest, IRS will validate the following on each State submission:

- The State can be identified in the State manifest
- The State indicated in the State submission is a State that is participating in the 1040 MeF Fed/State Program
- The State has authorized unlinked State submissions
- The EFIN indicated in the State manifest is a valid EFIN

If **State data does not pass the validations listed above**, then the State return will be denied by the IRS and an acknowledgement with the reason for denial will be sent to the transmitter

If **State data passes validations listed above**, then the MeF system takes the following actions:

- The MeF system checks the SSN and name control of the Primary Taxpayer (and Spouse if applicable) against the IRS SSN and name control database
- The MeF system associates the results of the SSN and name control check(s) with the State submission
- The MeF system stages State submission for retrieval
- The MeF system provides a status of "Ready for Pick Up"

8. The 1040 MeF Fed/State Program will only be available using Web Services application-to-application (A2A) communication between MeF and State systems.

9. The IRS will store the State return on-line on 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. The IRS will immediately notify the State when any change takes place in the length of time for data storage.

10. The IRS will make available, upon request, electronic reports of State returns received, denied, and made available to the State.

11. The IRS Disaster Recovery Plan for MeF stipulates that if MeF is not available, 1040 MeF Fed/State filing will be temporarily discontinued until program changes can be made at the backup site to allow for 1040 MeF Fed/State filing. The IRS will notify the State of a MeF shutdown and of the resumption of the 1040 MeF Fed/State Program at a backup site. The IRS will support electronic transmission of Federal and State submissions to the backup site and State retrieval from the backup site.

12. The IRS will notify the State of any prolonged 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 on the IRS website (www.irs.gov).

13. The IRS will acknowledge the disposition of the Federal return from a transmitter within 24 hours of the originating submission. Once the Federal acknowledgement is made to the transmitter, the State submission associated with an accepted Federal submission is staged for the State 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 (i.e., Received, Ready for Pick Up, Sent to State, Received by State, Acknowledgement Received from State, Acknowledgement Retrieved), but will not provide information on the acceptance or denial 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 following Toll-free telephone number: (866)-255-0654.

ARTICLE V – PARTICIPATING STATE ROLES AND RESPONSIBILITIES

1. The State will adhere to the requirements listed for all electronic filers in the IRS Revenue Procedure and will follow the procedures contained in Publication 3112 and the specifications contained in Publication 4164.

2. The State will provide final copies of its 1040 MeF Fed/State Program external procedures and requirement documents (such as forms, specifications, and instructions) to software developers, filers, and transmitters.

3. The State will provide IRS updates on the State electronic filing program, such as an end-of-the-season report, upon request.
4. The State will determine the data items in the State schema, which will be captured and transmitted by the electronic filer. The State will provide specifications and instructions to electronic filers (electronic return originators, transmitters, and software developers) for the preparation and transmittal of the State submission.
5. The State will keep abreast of IRS changes in the 1040 MeF Program via the IRS website (www.irs.gov) and Quick Alerts.
6. The State will provide a point of contact to the 1040 MeF Project Team.
7. The State will notify the appropriate IRS Fed/State Analyst of the date that its program will be operational.
8. The State is responsible for the Assurance Testing of the State requirements on the State data. If the State uses the IRS Test Package, the State will not disseminate the IRS test package information prior to IRS release. The State is responsible for determining and implementing the State test procedures to be followed on State returns.
9. The State will develop the capability to electronically retrieve all State submissions from the IRS through A2A. Additional service request messages are listed in Publication 4164. The State must use compatible computer hardware, software, and communications capabilities as specified in Publication 4164.
10. The State will retrieve State submissions from the IRS at least once each business day during the filing season. States are encouraged to retrieve State submissions more frequently during peak Filing Seasons and also on weekends. The MeF system 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 the IRS website (www.irs.gov).
11. If the State processing system is down for more than one (1) business day, the State will contact the appropriate IRS Fed/State analyst regarding those problems.
12. The State will retrieve all State submissions available from the IRS.
13. The State is responsible for maintaining data integrity once the State receives a completed data transmission. The State is responsible for resolving any subsequent errors of any type detected during State processing.
14. The State is responsible for creating periodic back-up files.

15. The State will notify the appropriate IRS Fed/State Analyst of any changes to its mandated e-file program and provide anticipated increase in e-file volume.

ARTICLE VI – DATA VALIDATION

The data validation method for a Federal submission is defined in Publication 4164, *Modernized e-File Guide for Software Developers and Transmitters*. The State may define the data validation for a State submission in its publications.

ARTICLE VII – DISCLOSURE OF TAX RETURN INFORMATION

Federal and State returns are sent to the IRS as complete and separate submissions. No data will be transferred or copied from one submission to another. The IRS generated information that will be provided to the State, for State submissions, will include:

- Electronic Transmitter Identification Number (ETIN) - the identifier of the transmitter that sent this submission to IRS
- Received Timestamp - the date and time the submission was received by IRS
- Electronic Postmark - the date and time the submission was received by the Transmitter
- The SSN Status - the results of the SSN and name control lookup for the Primary Taxpayer and Spouse (if applicable)
- Imperfect Return Indicator (E) on linked State submissions - the taxpayer has requested that IRS accept the Federal return even though the dependents' SSN and name control and/or the Earned Income Qualifying Child SSN and name control did not match
- Individual Taxpayer Identification Number (ITIN) Mismatch Indicator (M) on linked State submissions – this indicator is set when the Federal return contains a valid ITIN, and in the same return, a W-2 form contains a valid SSN

The Internal Revenue Code section 6103(p)(8) governs any “wraparound” information received electronically by the State. Further, the provisions of sections 7213 and 7431 apply to all State tax agency officers and employees. The IRS disclosure accounting requirement is being met by an automated procedure.

State return submissions are only made available to the State identified in the “Government Code” data field within the submission manifest. There is no provision for participating States to request or receive tax return data from other States using the capabilities of the electronic filing system.

If a participating State 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. The third party must meet the disclosure requirements cited above. The third party may use the State's ETIN and password.

ARTICLE VIII – SECURITY AND PRIVACY

The IRS and the State 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 2005-60, 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, which 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 (PIN), and other such credentials, such as digital certificates 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.

Users shall immediately notify the IRS by telephone 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, individuals are using 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 web sites, 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. Sec. 1001 and 1030.

ARTICLE IX – PREVENTION OF FRAUD

The State 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 State agency to detect duplicate or erroneous State returns and to develop audit procedures to combat and control that situation.

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

ARTICLE X – SOFTWARE REQUIREMENTS AND ACCEPTANCE OF TAX PREPARATION SOFTWARE

The procedures and specifications for 1040 MeF Fed/State Electronic Filing are contained in IRS Publications 1345 and 4164.

The State income tax information required by the State must be contained within the State publications. The State agency will determine and communicate to the software developers which data elements from the master 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 schemas. Determination of the test procedures to perform the IRS software assurance testing is the sole responsibility of the IRS. These test procedures are specified in Publication 1436.

The State will follow the testing and acceptance process described in Publication 1436. The State 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. IRS software developer testing does not replace the need for State software developer testing. IRS is responsible for receiving the test transmission, validating the data received, generating the IRS data for submissions that passed validations, and making the State submission available to the State for further testing.

ARTICLE XI – REJECTION/SUSPENSION OF AN ELECTRONIC FILER

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

Information on IRS monitoring, suspension, and administrative review process is contained in Publication 3112.

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

ARTICLE XII – WITHDRAWAL AND SUSPENSION OF A PARTICIPATING STATE

The State may withdraw from the 1040 MeF Fed/State Program by submitting a written notice to the IRS 1040 MeF Fed/State Team. The IRS may suspend the State from the 1040 MeF Fed/State Program due to failure to meet the terms and conditions of this MOU.

ARTICLE XIII – COSTS

All hardware and software development costs incurred by the State are the responsibility of the State. All communications costs associated with transmitting a State return filing 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 State and transmitting a State acknowledgement to the IRS are the responsibility of the State.

The IRS is responsible for all internal costs associated with the 1040 MeF Fed/State Program, including computer hardware and software. The IRS is responsible for providing the capacity to allow timely submission of State returns and access to State returns by the State.

ARTICLE XIV – 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 (28 U.S.C. 1346(b)), or pursuant to other Federal statutory authority. Similarly, the State 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 XV – THIRD PARTY RIGHTS

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

ARTICLE XVI – PERIOD OF UNDERSTANDING

This MOU is effective until it is officially terminated upon mutual written agreement.

ARTICLE XVII – EFFECTIVE DATE

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

ARTICLE XVIII – AMENDMENT OR TERMINATION 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 agreement. This MOU may be terminated by either party after ten (10) days notification. Notification will be by written letter, specifying the reason for the termination.

ARTICLE XIX – LIMITATIONS

The terms of this MOU are not intended to alter, amend, or rescind the Agreement on Coordination of Tax Administration between the IRS and the State, or any current agreement or provision of Federal law now in effect. Any provision of this MOU that conflicts with the Agreement on Coordination of Tax Administration or Federal law will be null and void.

ARTICLE XX - APPROVALS

It is agreed by the signatories that the IRS and the State will participate in the 1040 MeF Fed/State Program under the terms and conditions listed in this document.

For the State:

9.19.11 
Date (Signature)
Name Dennis H. France
(Printed)
Title Commissioner

For the Internal Revenue Service

8-18-11 
Date (Signature)
Name Richard Byrd, Jr.
(Printed)
Title Commissioner, Wage and Investment Division