

**Internal Revenue
Service**
Wage and Investment

**Publication
1437**

**Procedures for the Form 1041 *e-file* Program
U.S. Income Tax Returns For Estates and Trusts
For Tax Year 2008**



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Internal Revenue Service

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INTERNAL REVENUE SERVICE MISSION STATEMENT

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

TABLE OF CONTENTS
PROCEDURES FOR THE 1041 e-file PROGRAM

SECTION	PAGE
WHAT'S NEW FOR TAX YEAR 2008	1
1. INTRODUCTION	
• Purpose	2
• Change Page	2
• Copies of Forms and Publications	2
• Questions, Suggestions or Concerns	2
• e-Help desk	3
2. GENERAL INFORMATION	
• Form 1041	4
• When to File	4
• Methods of Filing	4
• Signature Methods	4
• Programming	5
• Foreign Address	5
• Accounting Periods	5
• Processing	6
• Amended Returns	6
• Short Tax Year	7
3. COMPOSITION OF THE RETURN	
• Tax Return Data	8
• Acceptable Forms, Schedules and Statements	9
• Types of Records	12
• The Paper Part of the Return	13
4. EXCLUSIONS	
• Types of Returns	15
• Failure to File Penalties	16

TABLE OF CONTENTS
PROCEDURES FOR THE 1041 e-file PROGRAM

SECTION	PAGE
5. ACKNOWLEDGMENT PROCESS	
• Acknowledgment File	17
• Transmission Acknowledgment	17
• Validation Acknowledgment	17
• Problems After Transmission	17
6. METHODS OF PARTICIPATION	
• Type of Participants	18
7. APPLICATION AND ENTITY REVIEW	
• Form 8633 Application	20
• Who to Contact	20
• Entity Review Process	21
8. BUSINESS ACCEPTANCE TESTING SYSTEM (BATS) AND ACCEPTANCE PROCEDURES	
• Business Acceptance Testing System (BATS)	22
• Pre-Entity Testing	22
• Ready to Test	23
• Testing Requirements for Transmitters	23
• Testing Requirements for Software Developers	24
• Acceptance Procedures	25
• Test Scenarios	25
9. FILING REQUIREMENTS AND RESPONSIBILITIES	
• Contingency Plan	28
• Integrity and Accuracy	28
• Revocation	28
• Security	28
• Start-Up Date	29

TABLE OF CONTENTS
PROCEDURES FOR THE 1041 e-file PROGRAM

SECTION	PAGE
9. FILING REQUIREMENTS AND RESPONSIBILITIES (Continued)	
• Drain Times	29
• Required Consistency Tests	29
• Requirements for Software Developers	29
• Due Dates	30
• Extensions	31
• When to File	31
• Where to File	32
• Address Change	32
• Changing Entries on the Return	32
10. FEDERAL/STATE REQUIREMENTS	
• General Description	33
• Return Rejection	33
• State Return	33
• Fed/State	34
• Requirements for Electronic Filing	34
• Overpayments	34
• Exclusions from Electronic Filing	35
• Return Sequence Order	35
• Acknowledgment (ACK) Report	35
11. ELECTRONIC SIGNATURES (FORM 8879-F)	
• Practitioner PIN Method	36
• Fiduciary's PIN	36
• ERO's EFIN/PIN	36
• Purpose of Form 8879-F	37
• Required Records	37

TABLE OF CONTENTS
PROCEDURES FOR THE 1041 e-file PROGRAM

SECTION	PAGE
12. PAPER SIGNATURES (FORM 8453-F)	
• Purpose of Form 8453-F	38
• Required Signatures	38
• Fiduciary's Authorization	38
• Multiple Tax Return Listing	39
• Bought/Sold	39
• Postmark Date	39
• Electronic Postmark	40
• Substitute Form 8453-F	40
• Transmitting the Return	40
• Problems Relating to Form 8453-F	40
• Failure to File Penalties	41
13. WHERE TO SEND FORM 8453-F AND PAPER ATTACHMENTS	
• Packaging Instructions	42
• Shipping and Packaging	42
• Method of Delivery	42
• Resubmission on Paper	43
14. BALANCE DUE RETURNS: TAX PAYMENT	
• Balance Due Returns	44
• Payments	44
• Electronic Funds Withdrawal	44
• EFTPS	45
15. DISTRIBUTION OF COPIES	
• Participant's Copy	46
• Client's Copy	46
• Electronic Acknowledgment	46
• Fiduciary's Copy	46
• IRS Copies	

TABLE OF CONTENTS
PROCEDURES FOR THE 1041 e-file PROGRAM

SECTION	PAGE
16. ADVERTISING STANDARDS	
• Restrictions	47
• Endorsement	47
17. SAFEGUARDING THE 1041 e-FILE PROGRAM	
• Program Requirements	48
• Monitoring	48
• Sanctioning	48
• Suitability	48
• Submissions	49
• Quality	49
• Suspension	49
• Counseling	50
• Penalties	50
18. ADMINISTRATIVE REVIEW	
• Participation	51
• Reinstatement	51
19. EFFECT ON OTHER DOCUMENTS	
• Revisions	51
• Publications	51
20. EFFECTIVE DATE	
• Calendar and Fiscal Year Returns	51

WHAT'S NEW FOR TAX YEAR 2008

1. On **December 1, 2008**, the Internal Revenue Service will begin the Business Acceptance Testing System (BATS) for Software Developers and Transmitters.
2. Effective **January 26, 2009**, the Internal Revenue Service (IRS) will begin to accept and process Tax Year 2008 Estate and Trust returns electronically.
3. **Form 8271**, Investor Reporting of Tax Shelter Registration Number and **Form 8830** Enhanced Oil Recovery Credit, are obsolete
4. **New Schedule I, (Form 1041 Alternative Minimum Tax)**
5. **Publication 1438-A, Supplement Form and Schedule Exhibits**, is no longer available.
6. Extension period reduced to **5 months for Estates and Trusts**. See revised Form 7004 and instructions for Tax Year 2008.
7. Section 11, Electronic Signature (**Form 8879-F**) New **Practitioner PIN e-file Signature Method** provides information on the preferred method for estates and trusts to sign e-filed returns.
8. Review Publication 1438 for form and validation changes for Tax Year 2008.

SECTION 1 INTRODUCTION

PURPOSE

This publication is designed to provide the general requirements and procedures for Form 1041 *e-file* Program, U.S. Income Tax Return for Estates and Trusts. This publication should be used in conjunction with the following publications for Tax Year 2008:

- Publication 1438, File Specifications, Validation Criteria and Record Layouts for The 1041 e-file Program, U.S Income Tax Return for Estates and Trusts
 - Publication 3112, IRS e-file Application and Participation
-

CHANGE PAGE

If any information contained in this publication changes before its revision, a change page(s) may be issued. New information and changes will be denoted by a vertical bar (|) in the right margin. Any procedure that is added, deleted or has a major impact on the current year processing of returns will be communicated via e-mail and/or displayed on the IRS website.

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You may also place an order to be delivered by U.S. mail by calling 1-800-829-3676.

QUESTIONS, SUGGESTIONS, OR CONCERNS

If you have any questions, suggestions or comments regarding this publication, or are aware of errors, (typographical, technical or usage) please let us know. You may write to the following address:

Internal Revenue Service
Electronic Business Returns Section SE:W:CAS:SP:ES:B
5000 Ellin Road, Room C5 -333
Lanham, Maryland 20706
Attn: 1041 e-file Program

SECTION 1 INTRODUCTION, continued

e-HELP DESK Call the e-Help Desk for the following:

- Transmission problems
- Reject Codes
- Status of Processing
- If you need another Test ETIN while filing production
- If you need your Acknowledgment (ACK) File “re-hung” because it appears that you did not receive it. (Contact your software developer to make sure that the software is looking for and capable of parsing out each ACK File for a transmission when multiple ACK Files are picked up).

The e-Help Desk number is 1-866-255-0654.

SECTION 2 GENERAL INFORMATION

FORM 1041 Form 1041, U. S Income Tax return for Estates and Trusts is used by the fiduciary of a domestic decedent's estate, trust, or bankruptcy estate to report income, deductions, gains, losses, etc. of the estate or trust. Income that is either accumulated or held for future distribution or distributed currently to the Beneficiaries (taxable distributions) is reported to beneficiaries via Schedule K-1.

WHEN TO FILE April 15th is the due date for electronic filing of Form 1041, Schedules K-1 and related forms and schedules and is the same as Form 1041 filed on paper.

METHODS OF FILING **Non-encrypted options for IRS e-file program participants who transmit directly to the Electronic Management System (EMS) have been discontinued.**

All trading partners (transmitters) who directly transmit to the IRS EMS must use either the IRS internet solution or they must purchase and install an IRS Facilities Federal Information Processing Standard (FIPS)-compliant and IRS approved encrypted dedicated leased lines.

NOTE: See Publication 1438 Section A, Data Communications, for more information about discontinuance of non-encrypted options for IRS e-file for the 2008 filing season.

SIGNATURE METHODS There are two methods to sign e-filed returns. The preferred method is the Practitioner PIN Method, using form 8879-F, IRS, e-file Signature Authorization for Form 1041. The alternative method is through the use of Form 8453-F, U.S. Estate and Trust Income Tax Declaration and Signature for Electronic Filing.

Please refer to Sections 11 and 12 for in depth discussions on the two signature methods.

SECTION 2 GENERAL INFORMATION, continued

PROGRAMMING This includes selected schedules and forms required by the IRS and supported by this program.

File Specifications, Validation Criteria, Reject Codes, Record Layouts and Forms Exhibits needed by participants are provided in Publication 1438, Validation Criteria, Reject Codes, and Record Layouts for the 1041 e-file Program , U.S. Income Tax Return for Estates and Trusts for Tax Year 2008.

**FOREIGN
ADDRESS**

Form 1041 with a foreign address can be filed electronically.

**ACCOUNTING
PERIODS**

You must figure taxable income on the basis of a tax year. A “tax year” is an annual accounting for keeping records and reporting income expenses. The tax years you can use are:

- A Calendar Year
- A Fiscal Year

You adopt a tax year when you file your first income tax return. You must adopt your first tax year by the due date (not including extensions) for filing a return for that year.

The due date for a fiduciary return is the 15th day of the 4th month after the end of the tax year.

SECTION 2 GENERAL INFORMATION, continued

PROCESSING

Processing of returns includes the following **Calendar** and **Fiscal** year endings:

- **Calendar Year Returns** – Fiduciary with a Calendar Year ending December 31, 2008.

Example: Tax Year 2008 calendar year beginning January 1, 2008 and ending December 31, 2008, the return is due April 15, 2008.

NOTE: For Calendar Year returns the Tax Period Beginning and Tax Period Ending should not be entered on the Form 1041 (Record Layout Fields #0005 and #0010 and 0020);

- **Fiscal Year Returns** - Fiscal years ending in January through June 30, 2009

Example: Tax Year 2008 return beginning February 1, 2008, and ending January 31, 2009 the return is due May 15, 2009. Tax Year 2008 return beginning July 1, 2008, and ending June 30, 2009, the return is due October 15, 2009.

NOTE: The Tax Period Beginning and Tax Period Ending do not have to be the first or last day of the month.

If a return has a Fiscal Year ending after June 30, 2009, it cannot be filed electronically.

No extensions to e-file are granted/approved for 1041 Fiscal Year Returns with a tax period ending June through December 2009.

AMENDED RETURNS

The current 1041 e-file Program **does not** accept amended returns electronically. To correct an error(s) on a Form 1041 return that was filed electronically for the current or prior tax year, the amended return must be filed on paper and mailed to the IRS Center where the estate or trust **paper return** is filed.

SECTION 2 GENERAL INFORMATION, continued

SHORT TAX YEAR

A Short Tax Year is a tax year of less than 12 months. A short period tax return may be required when you (as a taxable entity):

- Are not in existence for an entire tax year; or
- Change your accounting period.

Even if you (a taxable entity) were not in existence for the entire year, a tax return is required for the time you were in existence. The requirements for filing a return and figuring the tax are generally the same as the requirements for a return for a full tax year (12 months) ending on the last day of the short tax year.

SECTION 3 COMPOSITION OF THE RETURN

TAX RETURN DATA

U.S. Income Tax Return for Estates and Trusts, Form 1041, for electronic filing consists of tax return data transmitted to the IRS using electronic transmission with the required paper documents, such as signatures, documents prepared by third parties, etc. Summarizing, the tax return must contain the same information as a return filed on paper.

The following forms **must** be filed electronically with the 1041 Return and **cannot be attached to Form 8453-F**, unless otherwise specified in Section 3 under Composition of the Return.

NOTE: See Section 3, COMPOSITION OF THE RETURN, for additional information regarding the number of certain forms or schedules allowed with an electronic return.

**ACCEPTABLE
FORMS,
SCHEDULES
AND
STATEMENTS**

Form 1041	U.S. Income Tax Return for Estates and Trusts
Schedule C (Form 1040)	Profit or loss From Business
Schedule C- EZ (Form 1040)	Net Profit From Business
Schedule D (Form 1041)	Capital Gains and Losses
Schedule E (Form 1040)	Supplemental Income and Loss
Schedule F (Form 1040)	Profit or Loss From Farming
Schedule H (Form 1040)	Household Employment Taxes
Schedule I	Interest Expense Allocation Under Regulations
Schedule J (Form 1041)	Accumulation Distribution for a Complex Trust
Schedule K-1 (Form 1041)	Beneficiary's Share of Income, Deductions, Credits, Etc.
Form 1116	Foreign Tax Credit
Form 2210	Underpayment of Estimated Tax by Individuals, Estates and Trusts
Form 2210-F	Underpayment of Estimated Tax by Farmers And Fishermen
Form 2439	Notice to Shareholder of Undistributed Long Term Capital Gains
Form 3468	Investment Credit
Form 3800	General Business Credit
Form 4136	Credit for Federal Tax Paid on Fuels

**ACCEPTABLE
FORMS,
SCHEDULES
AND
STATEMENTS**

Form 4255	Recapture of Investment Credit
Form 4562	Depreciation and Amortization
Form 4684	Casualties and Thefts
Form 4797	Sales of Business Property
Form 4952	Investment Interest Expense Deduction
Form 4970	Tax on Accumulation Distribution of Trusts
Form 4972	Tax on Lump-Sum Distributions
Form 5884	Work Opportunity Credit
Form 6198	At-Risk Limitations
Form 6252	Installment Sale Income
Form 6478	Credit for Alcohol Used as Fuel
Form 6765	Credit for Increasing Research Activities
Form 8082	Notice of Inconsistent Treatment Administrative Adjustment Request
Form 8275	Disclosure Statement
Form 8275-R	Regulatory Disclosure Statement
Form 8582	Passive Activity Loss Limitations
Form 8582	Worksheet
Form 8582-CR	Passive Activity Credit Limitations
Form 8586	Low Income Housing Credit
Form 8609-A	Annual Statement of Low-Income Housing Credit
Form 8801	Credit for Prior Year Minimum Tax – Individuals, Estates and Trusts
Form 8820	Orphan Drug Credit
Form 8824	Like-Kind Exchanges

**ACCEPTABLE
FORMS
SCHEDULES
AND
STATEMENTS**

Form 8829	Expenses for Business Use of Your Home
Form 8860	Qualified Zone Academy Bond Credit
Form 8864	Bio-Diesel and Renewable Diesel Fuels Credit
Form 8874	New Markets Credit
Form 8881	Credit for Small Employer Pension Plan Startup Costs
Form 8882	Credit for Employer-Provided Childcare Facilities and Services
Form 8886	Reportable Transaction Disclosure Statement
Form 8896	Low Sulfur Diesel Fuel Production Credit

SECTION 3 **COMPOSITION OF THE RETURN, continued**

TYPES OF RECORDS

The following are data records that can be transmitted electronically with the 1041 return and associated forms and schedules.

- **Statement Record** – Statement Records are only used when the number of data items exceeds the number that can be contained in the blank provided on the printed form or schedule. Data must be provided in a separate Statement Record. A Statement Record can be required to explain certain entries on a form or schedule.
- **Preparer Note Record** – The Preparer Note Record is to provide additional voluntary information related to the return but not required to be attached to the return.
- **Election Explanation Record** – The Election Explanation Record can be used when the taxpayer makes an election for certain tax treatment, status, exception or exemption based on an instruction for the tax form or in a related tax publication when there is no official IRS form designed for that purpose.
- **Regulatory Explanation Record** – The Regulatory Explanation Record can be used when the taxpayer cites a specific regulation for certain tax treatment, status, exception or exemption when there is no official IRS form designed for that purpose.
- **Summary Record** – The Summary Record or Schedule K-1 Summary Record will contain filer identification data, counts of the schedules, forms and statements included in one return, and indicators for paper documents attached to Form 8453-F.
- **Authentication Record** – The Authentication record **MUST** be included with IRS e-file returns for fiduciaries electing to use the Practitioner PIN Signature Method instead of Form 8453-F.
- **Recap Record** – The Recap Record cross-references the transmitter's information from the first record of the Transmission Record. It contains a field that specifies the Total Return count for all the records submitted within the transmission.

SECTION 3 COMPOSITION OF THE RETURN, continued

- **Payment Record** – Electronic Funds Withdrawal Direct Debit Payment Record.
- **State Return Record** – New York (NY) only.

NOTE: See Publication 1438, for additional information on the Types of Records that can be filed electronically.

THE PAPER PART OF THE RETURN

Form 8453-F, U.S. Estate or Trust Income Declaration and Signature for Electronic Filing, is the paper document required when filing Form 1041 return electronically and the Practitioner PIN Signature Method is not used.

Paper attachments for the return will include tax forms other than the Form 1041 that require a signature(s) and other supporting documentation. These items must be attached to the signed Form 8453-F. They include other documents that are:

- not required by the IRS and are voluntarily included by the fiduciary or the participant as supporting material;
- not IRS forms or schedules;
- not covered in this Section, under Acceptable Forms and Schedules;
- in excess of the limits that are allowed for Schedule K-1 statements and statements for all other forms and schedules, example: Disclosure Statements

SECTION 3 COMPOSITION OF THE RETURN, continued

If more than one of the forms or schedules listed needs to be filed with the estate or trust return, **the entire return must be filed on paper.**

Schedule D	Form 5884
Form 2210	Form 6478
Form 2210F	Form 6765
Form 3468	Form 8582
Form 3800	Form 8582-CR
Form 4136	Form 8586
Form 4797	Form 8801
Form 4952	Form 8820
Form 4970	

SECTION 4 EXCLUSIONS

TYPES OF RETURN

The following types of estate and trust returns cannot be filed electronically:

- Amended returns;
- Fiscal year returns ending during any month after June 30 of the current processing year.
- Returns with dollar and cent entries—only whole dollar amounts are accepted; (Round entries to whole dollars only upon output; computed percentage distributions on Schedules K-1 (Form 1041) may not balance due to this rounding.);
- Returns with Powers of Attorney (POA), and the IRS does not have a POA on file. In order to file electronically, the POA should be filed prior to the transmission of the electronic filed return.

NOTE: The POA must be submitted on paper to the IRS Center where the taxpayer would normally file a paper return. The POA must be submitted at least 6 weeks prior to transmitting a return that includes the Power of Attorney.

- Returns filed under Sections 6020(b) of the Internal Revenue Code;
- Fiscal Year Returns with extension dates after June 30 of the current year;
- Fiscal Year Short Period Returns;
- Fiscal Year Final Returns ;
- Returns with any dollar amount greater than \$99,999,999,999;
- Tentative returns;

SECTION 4 EXCLUSIONS, continued

- Family trust returns (except those filed by a bank);
- Bankruptcy estate returns;
- Returns with refund amounts equal to or greater than \$1,000,000

NOTE: Fiduciaries with a Fiscal Year Return, a Short Period Return ending on a month prior to December 31, or a Fiscal Year Final Return, cannot file electronically. However, fiduciaries with any type of Fiscal Year Return with a tax period ending on or before June 30, 2008 (January 2008 – June 2008) may file electronically.

No extensions are granted/approved for Fiscal Year returns with a tax period ending June through December 2008.

FAILURE TO FILE PENALTIES Parties involved in the transmission of electronic filing of Form 1041 returns may be liable for failure to file penalties due to missing, incomplete or unsigned signature forms.

SECTION 5 ACKNOWLEDGMENT (ACK) PROCESS

ACK FILE IRS acknowledges each transmission of electronic return data. A return can be acknowledged (ACK) as accepted, even though it has not been through any math checks. There are two types of ACK files, the Transmission ACK File and the Validation ACK File. The IRS will provide an outbound mailbox for pick up of ACK files by the transmitter.

TRANSMISSION ACK The Transmission ACK File is generated if there is a problem in the basic formatting of the entire file. If a Transmission ACK File is generated, individual forms and schedules are not validated. This ACK file should be available within two workdays after receipt of a transmitted file.

VALIDATION ACK The Validation ACK File is generated when there is a problem within the return. The ACK file counts for the number of Forms 1041 and related forms and schedules. The file provides the reject code numbers for up to 96 errors per return.

PROBLEMS AFTER TRANSMISSION If the following situations occur after returns have been transmitted to the Enterprise Computing Center, the transmitter should immediately contact the Ogden Submission Processing Center at **1-866-255-0654**:

- The transmitter does not receive a transmission acknowledgment file within two (2) workdays; or
 - The transmitter receives an acknowledgment for returns or records that were not transmitted on the designated transmission; or
 - The transmitter receives an acknowledgment, but it does not include the reject code (s) for forms transmitted.
-

SECTION 6 METHODS OF PARTICIPATION

TYPE OF PARTICIPANTS

An Electronic Participant is considered in one or more categories or business types listed below, depending on the specific function(s) the participant performs in relation to the estate or trust or IRS:

- **FIDUCIARY:** A trustee of a trust; or an executor, administrator, personal representative, or person in possession of property of a decedent's estate. It is the responsibility of the fiduciary to ensure that the return is transmitted to the Enterprise Computing Center in Memphis, TN.
- **ELECTRONIC RETURN ORIGINATOR (ERO):** Originate the electronic submission of tax returns to the IRS. An ERO originates the electronic submission by:
 - electronically sending the return to a transmitter that will transmit the return to the IRS;
 - directly transmitting the return to the IRS; or
 - providing a return to an Intermediate Service Provider for processing prior to transmission to the IRS.

NOTE: Please refer to Publication 1345 for additional information pertaining to ERO's.

- **PAID PREPARER:** A firm, organization, or individual who:
 - deals directly with the estate or trust from which the return is due;
 - prepares a return or collects return data for purposes of having electronic records of the Form 1041, Schedules K-1 and related forms and schedules produced; or collects a prepared return for purposes of having electronic records of Forms 1041, Schedules K-1 and related forms and schedules prepared; and
 - obtains the fiduciary signature on Form 8453-F **(See Section 12 for Form 8453-F Procedures)**

SECTION 6 METHODS OF PARTICIPATION, continued

- **TRANSMITTER:** Receives Form 1041 data from clients and transmits the data to IRS electronically, in a format IRS can process.

 - **SOFTWARE DEVELOPER:** Designs or produces software, used to:
 - prepare returns;

 - format Form 1041 return, Schedules K-1 and related forms and schedules according to IRS specification for electronic filing; or

 - transmit the Form 1041 return and the electronic records for Schedules K-1 and related forms and schedules directly to IRS.
-

SECTION 7 APPLICATION AND ENTITY REVIEW

FORM 8633 APPLICATION

The first step to participate in the program is to register on-line for e-services. Use e-Services to complete and submit an electronic application, Form 8633, Application to Participate in the IRS e-file Program. Or mail the paper version of the application to the address of the IRS Andover Submission Processing Center (ANSPC) shown below for processing. To ensure the application is processed timely, the IRS should receive the form at least 45 calendar days before the entity transmits live returns electronically. The IRS will accept applications by mail. The Andover Submission Processing Center's **(ANSPC) mailing address is:**

Internal Revenue Service
Andover Campus
Attn: EFU Acceptance
P.O Box 4099
Woburn, MA 01888-4099

Overnight Mailing Address

Internal Revenue Service
Andover Campus
Attn: EFU Acceptance
Testing Stop 983
310 Lowell Street
Andover, MA 01810-0001

WHO TO CONTACT

If you have a question regarding the application process, call ASPC at 1-866-255-0654 (toll free). All foreign callers should call 01-512-416-7750 (not toll free).

If you or your organization participate in more than one of the IRS e-file for Business programs, we recommend that a single Form 8633 be submitted which includes all of the returns that you file.

The Andover Campus will mail a letter annually to each Participant assigning their Electronic Identification Number (ETIN) and temporary password that is needed to logon and transmit test data for the new filing season. An Electronic Filing Identification Number (EFIN) will be assigned by the IRS to participate in the IRS e-file program.

SECTION 7 APPLICATION AND ENTITY REVIEW, continued

Please refer to **Publication 3112** for additional information on suitability checks and procedures for submitting and revising Form 8633.

NOTE: If your provider role is an Electronic Returns Originator (ERO) only, you will still need to fill out a form 8633 to be assigned an Electronic Filing Identification Number (EFIN) to participate in the IRS e-file program.

ENTITY REVIEW PROCESS

Participants must ensure that entity information submitted on the Form 8633 is correct. Entity information includes the name, address, telephone number (with contact name) of the participant and the Employer Identification Number (EIN). The data will be matched with the already existing IRS records. The participants will be notified of any discrepancies and asked to correct the problems(s) before Testing can begin.

After review of the Form 8633 application, the IRS will assign an Electronic Transmitter Identification Number (ETIN), Electronic Filing Identification Number (EFIN) and a temporary password to each applicant. The ETIN will only be assigned if transmitting return(s). The ETIN and test password will be used to logon and transmit test data. Participants will be required to create a new password for their particular ETIN, the first time a login to the Electronic Management System (EMS) is initiated on or about December 1, 2008, the beginning of BATS testing. Participants will use your current password for this login. This includes new transmitters who receive their initial password in the mail and transmitters transmitting test or production.

SECTION 8 BUSINESS ACCEPTANCE TESTING SYSTEM (BATS) AND ACCEPTANCE PROCEDURES

BUSINESS ACCEPTANCE TESTING SYSTEM (BATS)

Business Acceptance Testing System (BATS) is mandatory and required each year for all participants who develop software and/or transmit returns. The purpose of testing is to ensure that IRS can receive and process the electronic returns. In preparation for processing Tax Year 2008 fiduciary returns, the IRS will accept test returns through BATS beginning December 1, 2008.

Transmitters will subsequently be required to change their passwords upon login on or after 90 days have elapsed since their last password change. A lost, forgotten, or compromised password will require a call by the transmitter to the e-help desk to initiate an e-case for referral to an EMS Assistant to reset the password. Testing should begin at least sixty (60) days prior to live transmission of return(s) to allow ample time to resolve any testing problems prior to transmitting live returns.

The software package used to prepare/transmit the return data must pass testing with the IRS prior to live transmissions.

NOTE: Testing must be completed before the participant transmits live data. See Section 8, Test Scenarios.

PRE-ENTITY TESTING

This testing is performed during BATS. Each transmission must include TRANA and TRANB. Testers can send minimum of a return, i.e. 1041 pages 1 and 2, Summary Record, Recap Record. Return information above line 1, page 1 is required. Remainder of return may be blank.

SECTION 8 BUSINESS ACCEPTANCE TESTING SYSTEM (BATS) AND ACCEPTANCE PROCEDURES, continued

READY TO TEST When applicants are ready to test, they must make arrangements with the **Ogden Submission Processing Center Electronic Filing Section at 1-866-255-0654.**

TESTING REQUIREMENTS FOR TRANSMITTERS Transmitters must make arrangements for a test transmission. The test file must be transmitted using the same medium that will be used to file the live returns electronically. A test file must be similar to the types of returns the participant expects to transmit for live processing. For example, if a participant successfully transmits test data that contains records for Forms 1041, Schedules D and Schedule K-1; IRS will authorize the applicant to file these records only.

In addition, transmitters using accepted software must complete an error-free communications test by transmitting two returns in separate transmissions in the same day. The two transmissions must have returns in sequential order.

NOTE: Contact Ogden Submission Processing Center to schedule transmissions.

After software developers have successfully completed BATS scenarios, transmitters must transmit two same day transmissions. The two transmissions must be three returns in the first transmission and two returns in the second transmission to check the sequential order. In addition, transmitters using accepted software must complete an error-free communications test by transmitting two returns in separate transmissions in the same day. The two transmissions must have returns in sequential order.

SECTION 8 BUSINESS ACCEPTANCE TESTING SYSTEM (BATS) AND ACCEPTANCE PROCEDURES, continued

TESTING REQUIREMENTS FOR SOFTWARE DEVELOPERS If the software packages and communication systems are used by more than one transmitter, each must test consistent as described in Section 8, Page 23, Testing Requirements for Transmitters.

Software developer's submission of test files:

- After acceptance, two same day transmissions must be made, three returns in the first transmission and two returns in the second to check the sequential order.
- In some cases the software developer may test software specific return data. The software developer must notify the Ogden Submission Processing Center Tax Examiner and provide the information on the forms and schedules that will not be tested. The IRS will not allow these forms and schedules during live data transmissions.

Computer software must provide the same software capabilities and, if applicable, identical data communications capabilities to all users. Other accepted participants may use software packages that test successfully. Software packages will only be authorized for those forms and schedules that were tested by IRS.

SECTION 8 BUSINESS ACCEPTANCE TESTING SYSTEM (BATS) AND ACCEPTANCE PROCEDURES, continued

ACCEPTANCE PROCEDURES

The Ogden Submission Processing Center will process each test transmission and communicate by telephone if necessary with the applicant concerning their transmission. If the test file is not correctly formatted, or if the test returns contain errors, the IRS will notify the applicant regarding what errors were encountered on each return. The applicant must then correct the software to eliminate the errors and retransmit the test file. When the test file is accepted, ANSC will send a letter of acceptance. This letter will contain telephone number of the help desk and times to call should the participant have any questions or problems regarding the transmission of returns. Acceptance is valid only for the year and for forms and schedules specified in the acceptance letter. The IRS will inform participants when to begin transmitting live data.

TEST SCENARIOS

You are required to transmit test scenarios using the Form 1041 return, Schedules K-1, and forms and schedules associated with the 1041 return. A test file consisting of at least 10 returns, but no more than 20 with the related forms, schedules and attachments must be transmitted.

Refer to Publication 1438, File Specifications, Validation Criteria and Record Layouts for the Form 1041, e-file Program, U.S. Income Tax Return for Estates and Trusts for Tax Year 2008, for changes to reject codes and validation criteria for Tax Year 2008. Some of the testing requirements are optional. It is highly recommended that test scenarios be developed with the requirements provided below in addition to other changes that impact returns within the scope of your operations.

SECTION 8 BUSINESS ACCEPTANCE TESTING SYSTEM (BATS) AND ACCEPTANCE PROCEDURES, continued

1. If foreign addresses are within the scope of returns you prepare, create a scenario to test the addition of new fields 0095, 0097, 0110 and 0115 added to the Form 1041 record layout, to allow returns with foreign addresses to be filed electronically.
2. Pre-filing Entity Testing has been incorporated into the program to identify entity problems before the actual (production) return is filed. Since Entity Testing requires the use Employer Identification Number (EIN) and name control assigned by the IRS, the use of fictitious or incorrect EIN and Name Control will result in rejection of returns with Reject Code 122. If you do not wish to provide actual EIN information on your test scenarios, refer to item 3.
3. Software Developers may still participate in BATS testing without providing actual EIN's in their test scenarios. If you elect not to test the entity information on your returns, you must use an EIN range of 41-0000001 through 41-0001000. However, use of the "test" range of EIN will result in generating Reject Code 122 which you may ignore due to the use of the test EIN range.
4. Create a scenario to test the inclusion of the Authentication Record as part of the record if the Practitioner PIN electronic signature method is used.
5. Several forms have changed for the current tax year. If any of the forms listed in Publication 1438 under "Significant Changes Summary for 1041 E-file, Tax Year 2008, is within the scope of returns you prepare, create a scenario to test each form.
6. Major changes have been made to Forms 1116, 4136, 4684, 5884, 6765 and 8082 for Tax Year 2008. If these forms are used within the scope of the types of returns filed on behalf of your clients, create a scenario to test the changes. See Publication 1438 for new record layouts and reject codes.
7. Create a test scenario to include Schedule K-1 and Schedule I with the Form 1041 Return.

**SECTION 8 BUSINESS ACCEPTANCE TESTING SYSTEM
(BATS) AND ACCEPTANCE PROCEDURES,
continued**

8. Create scenarios to test the following most common reject codes:

<u>Reject Code</u>	<u>Description</u>	<u>Errors</u>
122	EIN/Name Control Mismatch	39,880
212	Invalid character in 1041 or K-1	2,226
128	Duplicate returns	1,633
916	EFIN missing or	1,502
288	Statement Record	1,575
332	Summary Record of Sch D records do not match IRS count	1,070
272	Fields designated with *** are numeric and positive only fields	1,061
256	ZIP Code not Numeric (1041 and K-1	674

SECTION 9 FILING REQUIREMENTS AND RESPONSIBILITIES

CONTINGENCY PLAN If the electronic filing system is inoperative for an extended period of time, the Ogden Submission Processing Center, Electronic Filing Section will provide contingency instructions to participants.

INTEGRITY AND ACCURACY Participants must maintain a high degree of integrity and accuracy in order to participate in the program.

REVOCATION IRS reserves the right to revoke the electronic filing privilege of any participant who does not maintain an acceptable level of quality, or who deviates from the procedures and specifications set forth in the following publications for Tax Year 2008:

- Publication 1438, File Specification, Validation Criteria and Record Layouts for the 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts
 - Publication 1437, Procedures for the 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts
-

SECURITY Participants are responsible for the security of all transmitted data.

SECTION 9 FILING REQUIREMENTS AND RESPONSIBILITIES, continued

START-UP DATE Effective January 26, 2009, the IRS will begin to accept and process TY 2008 Estate and Trusts Returns.

Participants (Transmitters) must contact the Ogden Submission Processing Center to inform them of where they intend to begin transmitting Form 1041 returns, Schedules K-1 and related forms and schedules electronically. IRS will not accept live return data before the start-up date (January 26).

DRAIN TIMES **January 26, 2009 – February 28, 2009**
One (1) Drain – 7:00 p.m. Central Time, Monday – Saturday

March 1, 2009 – April 30, 2009
Two (2) Drains – 1:00 p.m. and 7:00 p.m. Central Time
Monday – Saturday

May 1, 2009 – October 20, 2009
One (1) Drain – 7:00 p.m. Central Time, Monday – Friday

REQUIRED CONSISTENCY TESTS The electronic data must meet all the consistency tests required as specified in this publication and Publication 1438. The fiduciary or paid preparer must correct the return data prior to transmitting the return to the IRS. If the transmitter corrects any material, he or she becomes the preparer as explained in Section 6.

REQUIREMENTS FOR SOFTWARE DEVELOPERS In addition to the requirements outlined in Section 8, Software Developers **must:**

- correct software errors that cause electronically filed data to reject;
 - distribute their software corrections, quickly, to all participants who use their software package.
-

SECTION 9 FILING REQUIREMENTS AND RESPONSIBILITIES, continued

DUE DATES

Participants must be aware of and adhere to the following dates when transmitting the estate or trust return electronically:

- **December 1, 2008** is the date to begin transmitting test scenarios.
- **January 26, 2009** is the date to begin transmitting live 1041 e-file returns for Tax Year 2008.
- **April 15, 2009** is the due date for electronic filing of Form 1041, Schedules K-1 and related forms and.
- **NOTE: If April 15th falls on a Saturday, Sunday or holiday, the due date of the return is the next business day.**
- **September 30, 2009** is the last day to transmit test transmissions (scenarios).
- **October 15, 2009** is the last day the IRS will accept initial 1041 e-file returns for Tax Year 2008.

NOTE: If the last day to file falls on a Saturday, Sunday or holiday, the due date of the return is the next business day.

SECTION 9 FILING REQUIREMENTS AND RESPONSIBILITIES, continued

- **October 20, 2009** is the last day the IRS will accept retransmissions of corrected fiscal year Form 1041 returns that were previously transmitted but were rejected.

NOTE: If the last day to file falls on a Saturday, Sunday or holiday, this will be the due date of the return, and not the next business day.

- From the due date of the return, in most cases April 15, transmitters are allowed up to **(5)** work days to successfully retransmit electronic return data that was timely transmitted, but was rejected. The **(5)** work days to retransmit may not always apply to the extended due date of the return.
- If IRS has not acknowledged a transmission of Form 1041 returns, Schedules K-1 and other related forms and schedules within 2 working days after transmitting the data, the transmitter should immediately contact the e-Help Desk at the Ogden Submission Processing Center. The telephone number is:

1-866-255-0654
- Transmitters should also contact the Ogden Submission Processing Center when the Electronic Acknowledgment contains a reject code for a return/schedule that was not transmitted.

EXTENSIONS

Estates or trusts that expect to file returns late must apply for an **Automatic 5-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns**. Form 7004 replaces Forms 2758, 8736 and 8800. These extension forms are now obsolete.

WHEN TO FILE

Form 7004 must be filed on or before the due date of the Form 1041, in most cases April 15.

SECTION 9 FILING REQUIREMENTS AND RESPONSIBILITIES, continued

WHERE TO FILE

Form 7004 should be mailed separately to the Service Center where filers would normally send their paper returns.

Note: Extension Form 7004 does not extend the time for payment of tax. Extension Form 7004 should not be attached and mailed with Form 8453-F.

ADDRESS CHANGE

If the Estate or Trust changes its address, Form 8822, Change of Address, must be sent to the Ogden Submission Processing Center at the address listed in **Section 13, under Method of Delivery**.

CHANGING ENTRIES ON THE RETURN

After IRS accepts an electronic return, it cannot be recalled or intercepted in process. If the participant or estate or trust needs to change any entries after the return has been acknowledged as accepted; an amended or corrected return must be filed on paper. The amended or corrected return should be mailed to the IRS Center where you would normally file your paper return. (See Form 1041 instructions for more information)

SECTION 10 FEDERAL/STATE REQUIREMENTS

GENERAL DESCRIPTION

Federal/State Electronic Filing is a cooperative one-stop filing program between IRS and state tax administration agencies. This program allows the filing of both Federal and State income tax returns through the IRS Electronic Filing System. Only the State return file will be forwarded to the State. All federal information the filer wants to share with the State must be included in the State record. To assist in inclusion of federal information in the state file, the IRS created State Attachment E to accommodate federal data, including Schedule K-1. The tax return data must be placed into a format for transmission as specified by the IRS and the state. **New York** will be the only participant for Tax Year 2008.

RETURN REJECTION

A combined return will be rejected in its entirety if it contains any error conditions specified in Publication 1438. If the error(s) is of such a nature that it can be corrected and the return(s) processed, the combined return may be retransmitted to ECC in Memphis. The participant may elect to retransmit the Federal tax portion of a rejected return and then file the State return using State tax paper forms.

STATE RETURN

The State return shall be available to the State within two hours after receipt of the combined state files from the State Retrieval System (SRS).

After the receipt acknowledgment has been provided to the transmitter, the IRS is responsible for making the accepted combined return available to the State agency.

Once the state agency has successfully completed the transmission session and received the return, the responsibility for data integrity is that of the State agency.

Should subsequent errors of any type be detected during State processing, they are resolved between the State agency and the fiduciary using normal State paper procedures.

SECTION 10 FEDERAL/STATE REQUIREMENTS, continued

FED/STATE Participation in the 1041 Fed/State e-file program gives IRS authorization to release Federal tax information common to the Federal and State return to the designated State along with the information that is only required for State tax purposes.

REQUIREMENTS FOR ELECTRONIC FILING In order to file an electronic state Fiduciary Income Tax Return the following conditions **must** be met:

- The state return must be electronically filed with the federal return through the Enterprise Computing Center;
 - The return must be filed between January 28, 2008 and April 15, 2008;
 - The return data is for New York.
-

OVER-PAYMENTS

When preparing electronic returns, fiduciaries may elect to have their overpayments:

- Applied to their Tax Year 2008 estimated tax,
 - Sent to them in the form of a refund check, or
 - Split – part applied to their Tax Year 2008, estimated tax and the remainder issued in the form of a refund check.
-

SECTION 10 FEDERAL/STATE REQUIREMENTS, continued

EXCLUSIONS FROM ELECTRONIC FILING

Returns with the following criteria cannot be filed electronically:

- Amended return;
- Calendar Year Returns (January through December) ending prior to December 31, 2008;
- Returns for part-year residents of a state, or cities associated with that particular state;
- Returns reporting liabilities for nonresident earnings tax for cities associated with the particular state;
- Returns for decedents with Social Security Numbers in the following ranges:
 - 000-00-0000 through 001-00-9999
 - 691-00-0000 through 699-99-9999
 - 764-00-0000 through 999-99-9999
- Returns with a Power of Attorney currently in effect in which the refund is to be sent to a third party, or
- Returns with any correspondence requesting special consideration or procedures.
- Any State other than New York

RETURN SEQUENCE ORDER

The State return **Header and Attachments** must be received immediately following the Federal return and preceding the summary record.

ACK REPORT

IRS acknowledges receipt of State data with Federal Form 1041 and passes this data on to the appropriate State for further validation.

SECTION 11 ELECTRONIC SIGNATURE (FORM 8879-F)

PRACTITIONER PIN METHOD The Practitioner PIN method is the **preferred** method for estates and trusts to sign e-filed returns. Unlike Form 8453-F, U.S. Estate or Trust Income Tax Declaration and Signature for Electronic Filing, which has to be mailed to the IRS after successful transmission, Form 8879-F is retained by the transmitter, allowing a truly **paperless** system.

FIDUCIARY'S PIN The fiduciary chooses any five digits, **except all zeros**, as the PIN signature and must use an Electronic Return Originator (ERO) to e-file under this method.

If the fiduciary agrees, it is acceptable for an ERO and/or software program to generate or assign the taxpayer PIN. The fiduciary consents to the ERO's choice by completing and signing Form 8879-F.

The fiduciary's PIN can be systemically generated or manually assigned into the electronic format and/or the signature authorization form. However, the ERO must receive the signature authorization signed by the fiduciary before the ERO transmits the return or releases it for transmission to the IRS.

ERO's EFIN/PIN The ERO's EFIN/PIN consists of eleven digits. The first six positions is the EFIN, and the last five is any five numbers **except all zeros**.

If the return is prepared by the ERO that originates the electronic submission of the tax return, the ERO is required to input a PIN as a signature in the Authentication Record of the electronic return in the location designated for the ERO EFIN/PIN.

If the return was prepared by someone other than the ERO that originates the electronic submission, the ERO must ensure that the electronic record contains the return preparer's identifying information (i.e. name, address, and SSN or PTIN). By entering a PIN in the location designated for the ERO's EFIN/PIN in the electronic record, the ERO attests that the return preparer manually signed the paper copy of the return and that the electronic return contains tax information identical to that contained in the paper return.

SECTION 11 ELECTRONIC SIGNATURE (FORM 8879-F) (Continued)

PURPOSE OF FORM 8879-F

Form 8879-F, IRS e-file Signature Authorization for Form 1041, is used to authorize an Electronic Return Originator to enter a personal identification number (PIN) as the fiduciary's signature on an electronically filed form 1041. Form 8879-F is provided as a convenience when the fiduciary is unavailable or unable to return to the office, or it is inconvenient for the fiduciary to personally sign the electronically prepared tax return.

The practitioner must provide Form 8879-F to the fiduciary, along with a copy of the completed tax return, personally or by U.S. mail, private delivery service, e-mail, or an internet web site. Upon review of the tax return, the fiduciary completes part II of Form 8879-F with their PIN, signature and date. The fiduciary must return the form to the ERO, either personally or by U.S. mail, private delivery service, or FAX transmission. **The ERO must retain the completed Form 8879-F as instructed on the form.**

REQUIRED RECORDS

An **Authentication Record** is required when a trust or estate files an electronic return and elects to use the Practitioner PIN Method as the signature on the return. Please refer to Publication 1438, File Specifications, Validation Criteria and Record Layouts For the Form 1041, e-file Program, U.S. Income Tax Return for Estates and Trusts for Tax Year 2008.

SECTION 12 PAPER SIGNATURES (FORM 8453-F)

PURPOSE OF FORM 8453-F

Form 8453-F serves the following purpose:

- authenticates the return;
- authorizes the participant to transmit via a third-party transmitter;
- authorizes the transmitter to transmit the return on behalf of the estate or trust;
- serves as a transmittal for related forms and schedules that require signatures different than the signature that authenticates the return;
- **if the Practitioner PIN Method (Form 8879-F) is used to sign an electronically filed return**, Form 8453 can be used as an unsigned transmittal for related forms and schedules that require signatures different than the signature that authenticates the return; and
- authorizes an Optional Electronic Funds Withdrawal payment.

Note: Form 8453-F is only needed when filing a Fiduciary Return electronically, not when filing a paper return

REQUIRED SIGNATURES

The fiduciary and the paid preparer, if applicable, are required to sign Form 8453-F, U. S. Estate or Trust Income Tax Declaration and Signature for Electronic Filing.

All Forms 8453-F must be mailed within three business days **after** the acceptance date of the original electronic transmission.

FIDUCIARY'S AUTHORIZATION

If the electronic filing participant is **not** the fiduciary, the participant must get the fiduciary's authorization to file the returns electronically, and if applicable, to transmit, the returns through a third party. To get this authorization, the participant must have the same person who is authorized to sign a paper return sign Form 8453-F.

SECTION 12 PAPER SIGNATURES (FORM 8453-F) continued

MULTIPLE TAX RETURN LISTING

If a fiduciary or representing officer is authorized to sign more than one Form 1041 return, a Multiple Tax Return Listing (MTRL) may be attached to one Form 8453-F in lieu of sending separate Forms. The MTRL should include the date, transmitter's name and telephone number, the 5 digit ETIN and the page number.

The listing should be formatted to display the 9 digit EIN, Name Control, Tax Period, Total Income, Income Distribution, Taxable Income, Total Tax and Tax Due/Overpayment of the estate or trust. A Multiple Tax Return Listing with a maximum of 5000 estates or trusts may be attached to each Form 8453-F. The signature document for multiple returns must include one (1) Form 8453-F signed by the fiduciary or authorized representative. Landscape layout may be used to accommodate the 12 font requirement.

Example:

<u>TRUST</u> <u>EIN</u>	<u>NAME</u> <u>CONTROL</u>	<u>TAX</u> <u>PERIOD</u>	<u>TOTAL</u> <u>INCOME</u>	<u>INCOME</u> <u>DISTR. DEDUCT.</u>	<u>TAXABLE</u> <u>INCOME</u>	<u>TOTAL</u> <u>TAX</u>	<u>OVERPAYMENT</u>	<u>TAX</u> <u>DUE</u>
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Note: If the Practitioner PIN Method (Form 8879-F) is used to sign an electronically filed return, the MTRL should be attached to Form 8879-F and retained by the transmitter following the same guidelines outlined in the Instructions for Form 8879-F.

BOUGHT/SOLD

Participants who file Form 8453-F with multiple listings that include pooled mortgage accounts should send in a separate form 8453-F and listing for all returns that reflect either bought or sold mortgages.

NOTE: Returns listed on the bought or sold multiple listing should have an attached Form 8453-F recorded as bought or sold.

SECTION 12 PAPER SIGNATURES (FORM 8453-F) continued

POSTMARK DATE The package that contains Forms 8453-F must be postmarked within three business days after receiving the Acknowledgement File identifying which returns were accepted.

ELECTRONIC POSTMARK If the electronic postmark is on or before the prescribed filing deadline but the return is transmitted after that filing deadline, the IRS will deem the return to be timely filed based on the electronic postmark date/time supplied by the transmitter. If the electronic postmark is dated after the prescribed filing deadline, the actual date of receipt by the IRS of the electronic return will be considered the filing date for that return. **See Publication 1438, Summary Record, regarding the Electronic Postmark.**

SUBSTITUTE FORM 8453-F Participants must use the official Form 8453-F or an approved substitute form that duplicates the official form in format, language, content, color and size. Use of an unapproved form will result in suspension from the program. Participants must send a sample of their proposed substitute form to the following address for approval:

Internal Revenue Service SE:W:CAR:MP:FP:S:SP
Substitute Forms Program Coordinator
1111 Constitution Avenue, NW Room 6411, IR
Washington, DC 20224

TRANSMITTING THE RETURN Estate and Trust returns that are transmitted electronically must have the Form 8453-F mailed within three (3) business days after the return is accepted. The Form 8453-F must not be mailed for those returns that are rejected or identified as duplicates. The Estate or trust must ensure that the Form 8453-F is completed, signed, and that required forms, schedules, and other items are attached before mailing the form to the IRS.

PROBLEMS RELATING TO FORM 8453-F The fiduciary or paid preparer must resolve any problems relating to Form 8453-F. If IRS determines that a Form 8453-F is missing or unsigned, the preparer must provide IRS with a legible copy of the signed form from their records, or obtain a signed Form

SECTION 12 PAPER SIGNATURES (FORM 8453-F)
continued

8453-F from the taxpayer. This should be resolved within 15 days of the IRS request for the form.

FAILURE TO FILE PENALTIES Parties involved in the transmission of electronic filing of Form 1041 returns may be liable for failure to file penalties due to missing, incomplete or unsigned signature forms.

SECTION 13 WHERE TO SEND FORM 8453-F AND PAPER DOCUMENTS

PACKAGING INSTRUCTIONS

The paper Form 8453-F, and any other required paper documents, must be sent to the Ogden Submission Processing Center address listed below under "Method of Delivery", using envelopes or cartons, as volume or preference dictates.

NOTE: For electronic transmissions, the package containing Form(s) 8453-F and appropriate paper attachments, must be postmarked within 3 business days after receiving the Acknowledgement File identifying which returns were accepted and contain only IRS accepted e-filed tax return information.

SHIPPING AND PACKAGING

The sequence of the items in a package must be as follows:

- the signed Form(s) 8453-F;
 - the corresponding paper attachments for each return (i.e. multiple return listing) attached to the corresponding Form 8453-F.
-

METHOD OF DELIVERY

Envelopes, packages or cartons containing Form 8453-F and other paper attachments, sent by U.S. Postal Service should be sent to:

Internal Revenue Service
Ogden Submission Processing Center
Mail Stop 6052
Ogden, UT 84201

If sending Form 8453-F and other paper attachments through a vendor other than the U.S. Postal Service, contact OSPC ELF Unit at 1-866-255-0654 for mailing address.

SECTION 13 WHERE TO SEND FORM 8453-F AND PAPER DOCUMENTS, continued

RESUBMISSION ON PAPER If the participant submits the return on paper after attempting to file it electronically, or if at the end of the filing season (October 20, 2009) a participant is unable to successfully retransmit corrected returns electronically, the participant should attach a letter to the paper return that explains why the return was submitted on paper. A copy of the Acknowledgment File sent by the Ogden Submission Processing Center, to the transmitter concerning the return(s) transmitted, should also be included. A copy of this **ACK FILE** is needed to bypass assessment of any late-filing penalties. In order for the return to be filed timely, the entire paper return (including a copy of the **ACK FILE** should be mailed within 10 work days from the date the return(s) were rejected electronically. The paper return should be mailed to the IRS center where the estate or trust would normally file a paper return.

SECTION 14 BALANCE DUE RETURNS: TAX PAYMENT

BALANCE DUE RETURNS

Returns containing a money amount on Line 27 (Tax Due), Page 1 of Form 1041 are considered balance due returns.

Balance due returns (with or without payments) **do not** have to be transmitted separately from returns with no balance due.

PAYMENTS

Payments for Form 1041 e-file returns can be made in any of the following ways:

- Electronic Funds Withdrawal (EFW), allows for direct debit payments with balance due returns;
 - Electronic Federal Tax Payment System (EFTPS);
 - As estimated tax payments, with Form 1041-ES, Estimated Income Tax for Estates and Trusts. The payments should be submitted according to Form 1041-ES instructions; and
 - As a remittance sent after the return is filed, but by the return due date (i.e., the return can be transmitted prior to the return due date, however, the remittance does not have to be submitted until the return due date.)
 - Paper checks must provide the Employer Identification Number of the Estate or Trust, the form number and the tax year for which the payment is intended. Refer to the instructions for Form 1041 under “Where to File” for the mailing address.
-

ELECTRONIC FUNDS WITHDRAWAL

An optional Electronic Funds Withdrawal (EFW) is available with balance due returns. The fiduciary may authorize the U.S. Department of Treasury (through a Treasury Financial Agent) to transfer money from their bank account to the Treasury account. The fiduciary must sign the Jurat on either Form 8879-F or Form 8453-F, depending on the signature method used, to authorize the agreement between IRS and their Financial Agent to initiate an EFW (direct debit payment).

SECTION 14 BALANCE DUE RETURNS: TAX PAYMENT, continued

- EFW payments will be withdrawn in a single transaction, not installments.
- In the event the financial institution is unable to process the electronic funds withdrawal transaction, the fiduciary will be responsible for the tax payment in addition to penalties and interest.
- In the event Treasury causes an incorrect amount of funds to be withdrawn from the bank account, Treasury is responsible for returning any improperly transferred funds.

The payment record must contain the following information:

- Bank's Participant's Employer Identification Number (EIN);
- Routing Transit Number (RTN), (9 Numeric Characters);
- Bank Account Number, (1-17 Alphanumeric Characters or Hyphen"-");
- Bank Account Type, (Checking (1) or Savings (2));
- Payment Amount, (Whole Dollar Amounts Only);
- Fiduciary's Daytime Telephone Number; and
- Requested Payment Date, no later than one day after the return receipt date or equal to the return receipt date

EFTPS

Form 1041 payments (estimated, balance due, and subsequent) can be made through the Electronic Federal Tax Payment System (EFTPS). Contact an EFTPS Financial Agent at 800-555-4477 or 800-945-5300 for information.

NOTE: An extension of time to file does not grant an extension to pay tax.

SECTION 15 DISTRIBUTION OF COPIES

PARTICIPANT'S COPY The participant (preparer) must keep a copy of the Form 1041 return, Schedules K-1 and Form 8879-F or Form 8453-F, depending on the signature method used. The copy of the electronic return may be kept on computer media.

CLIENT'S COPY The participant should advise clients to keep copies of all materials filed with the Ogden Submission Processing Center. The copy of the electronic return can be a copy of the official forms or in a format designed by the participant, in which each data item refers to the line entries on the official forms. The copy can be on computer media. The computer media copy must be composed carefully to avoid violating disclosure rules.

NOTE: Anyone who receives a copy will be given ONLY the information he or she is entitled to receive.

ELECTRONIC ACK The participant (Transmitter) should keep a copy of the Electronic Acknowledgment (ACK) (**See, Section 5, Acknowledgment Process**) received from the Ogden Submission Processing Center for 3 months to facilitate inquiries. If the participant is also the paid preparer or the fiduciary, the normal retention periods for tax return information applies, as specified in the Internal Revenue Code.

FIDUCIARY'S COPY If the transmitter and the fiduciary are not the same, the transmitter must give the fiduciary a copy of all materials that are described above and filed with IRS for the estate or trust.

IRS COPIES The participant must give IRS access to all materials that the participant must keep to comply with these procedures.

SECTION 16 ADVERTISING STANDARDS

RESTRICTIONS Preparers and transmitters shall comply with the advertising and solicitation provisions of 31 C.F.R. Part 10 (Treasury Department Circular No. 230) with respect to their capability to file electronic returns.

ENDORSEMENT IRS endorsement must not be implied. Acceptance to participate in the program **does not mean** that the Internal Revenue Service endorses the computer software or quality of services provided. Therefore, any public communication in which a participant's electronic filing capability is referenced, whether through publication or broadcast, **must** clearly indicate that IRS acceptance of the participant for electronic filing does not constitute an endorsement or approval of the quality of tax preparation services provided.

SECTION 17 SAFEGUARDING THE 1041 e-FILE PROGRAM

PROGRAM REQUIREMENTS All participants must fulfill program requirements to continue participation in the 1041 e-file Program. Program requirements are included in **Revenue Procedure 2000-31**, this publication and in other publications and notices that govern the IRS e-file Programs. Adherence to all requirements is expected of all participants regardless of where they are published. Some requirements are specific to the category of the participant and are included in appropriate sections of this publication.

MONITORING The IRS monitors participants for compliance with the revenue procedures and IRS e-file requirements. Monitoring may include, but is not limited to, reviewing IRS e-file submissions, scrutinizing advertising material, checking Form 8453F submissions, examining records, observing office procedures and conducting suitability checks. IRS personnel may monitor participants during visits to the participant's offices and other locations where IRS e-file activities are performed. Monitoring visits may be conducted to investigate complaints and to ensure voluntary compliance.

SANCTIONING Violations of IRS e-file requirements may result in warning or sanctioning of the participant. Before sanctioning a participant, the IRS may issue a warning letter that describes specific corrective action for deviations from specific rules. However, sanctioning may be implemented without issuance of a warning letter. Sanctioning may be a written reprimand, suspension or expulsion from the 1041 e-file Program, depending on the seriousness of the infraction. The IRS categorizes the seriousness of infractions as Level One, Level Two and Level Three. Sanctions may be appealed through the Administrative Review process.

SUITABILITY A check is conducted on all firms and the principals and Responsible Officials of firms when a Form 8633 application is initially processed, and annually thereafter. To maintain the IRS 1041 e-file Program integrity annual suitability checks are done to determine if:

- All personal income tax returns are filed and timely;
- All business tax returns are filed and timely;

SECTION 17 SAFEGUARDING THE 1041 e-FILE PROGRAM, continued

- All tax liabilities are paid or appropriately addressed with the Service;
- Penalties have not been assessed; and
- There is evidence of disreputable conduct or other facts that would reflect adversely on the IRS 1041 e-file Program.
- The suitability check includes a credit check, a fingerprint card, compliance with tax requirements and meeting state and local licensing and/or bonding requirements for the preparation and collections of tax returns.

NOTE: Failure to meet any of these checks may result in the participant being sanctioned.

Please refer to Publication 3112 for additional information concerning Program Requirements.

SUBMISSIONS The Ogden Submission Processing Center will monitor each participant's submissions to ensure that quality is kept at an acceptable level. The Service Center will counsel the participant, if necessary.

QUALITY If a participant does not maintain an acceptable level of quality, the electronic filing authorization may be revoked.

SUSPENSION A sanction revoking privileges to participate in the IRS 1041 e-file Program. The following conditions can lead to suspension:

- Deterioration in the format of submissions;
- Unacceptable cumulative error rate;
- Violation of advertising standards;
- Unethical practices in return preparation;

SECTION 17 SAFEGUARDING THE 1041 e-FILE PROGRAM, continued

- Untimely receipt of Forms 8453-F or incomplete, illegible, altered, missing, or unapproved substitute Forms 8453-F;
- Failure to keep a signed copy of Form 8879-F for the required period.
- Misrepresentation on the participant's application (Form 8633); and
- Other facts or criteria that would adversely reflect on the electronic filing.

NOTE: If you were suspended and wish to be reconsidered into the program you will need to reapply by completing the Form 8633 application. Or if you were dropped from the program and would like to continue you also need to reapply. When reapplying, remember to include your previously assigned EFIN.

COUNSELING

IRS will counsel suspended participants concerning the requirements for reinstatement in the program.

PENALTIES

Treasury Regulations take precedence over these procedures. Electronic participants are subject to any criminal penalty for unauthorized disclosure or use of tax return information, as described in Treasury Regulation 301.7216-1(a). Other preparer penalties pertaining to individuals or firms who meet the definition of an income tax return preparer are covered under IRC Section 7701(a)(36) and Treasury Regulation 301.7701-15.

SECTION 18 ADMINISTRATIVE REVIEW

PARTICIPATION Applicants and participants who are denied participation, or suspended, have the right to request an administrative review.

REINSTATEMENT Requests for administrative review of ineligibility or suspension decisions should be directed to:

Internal Revenue Service
Office of the Director of Practice (PC:E:P)
1111 Constitution Avenue, NW
Washington, DC 20224

SECTION 19 EFFECT ON OTHER DOCUMENTS

REVISIONS This revision supersedes any Publication 1437 previously issued.

PUBLICATIONS Publication 1438, File Specification, Validation Criteria and Record Layouts for the 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts for Tax Year 2008;

Publication 1438-A, (Supplement) for the 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts for Tax Year 2008

NOTE: These publications are updated annually

SECTION 20 EFFECTIVE DATE

CALENDAR AND FISCAL YEAR RETURNS These procedures remain effective for calendar year returns ending December 31, 2008, and fiscal year returns ending January 31 through June 30, 2009
