

We now have responses from IRS for the questions that states have asked since the IRS notification limiting access to Legacy efile. Please continue to check the IRS website at <http://www.irs.gov/efile/article/0,,id=118575,00.html> for the latest information, including FAQs.

The most asked question, from a number of states, concerned Legacy acknowledgements. IRS has now made it clear that States can retrieve Legacy transmissions AND transmit Legacy acknowledgements at any time. Moreover, transmitters will be able to retrieve the Legacy acknowledgements at any time.

Here are more questions and responses:

1. Would it be possible for you all to provide the states with a list of the software vendors who meet the 1 million transmission requirement so we know who we should expect to see returns from? There are the obvious companies but some of our smaller transmitters might do big business in another state that takes them over the million mark.

Response: IRS has provided the list; however, this is confidential information and IRS has asked that it not be published on this website. Please contact the TIGERS State Co-Chair or FTA liaison for this information.

2. My interpretation of your notification is that it not only requires the transmitter to file the federal return through MeF but also requires the state return to come through MeF if the state is MeF ready.

Response: This is IRS intent; however, vendors are stating that they will not be able to support all MeF ready states in only a month. States must be ready to handle greatly increased MeF volumes from all vendors that can support them.

3. Since we have tax divisions within our Department that reference the federal return for various reasons (as when making line item adjustments based on taxpayer contact- etc), is it possible for a "copy" of the federal return to still be submitted with the "state-only" EMS return (even in cases where the federal return is transmitted separately via MeF)?

Response: This was also a question asked by a number of states. State stand-alone returns can include a copy of the federal return. If a state requires a copy of the federal return, then that requirement should be met. This issue has been communicated to industry via NACTP.

4. Could this impact large transmitter responsiveness to the states still on EMS- regarding possible issues with EMS software developer testing and/or EMS production issues with their products? We already have an issue at times now with some of the large transmitters being slow to respond.

Response: This issue has been communicated to industry via NACTP.

5. Could lead to an increase in amended state returns begin filed- especially if the federal return is rejected by the IRS due to an error that results in the Federal Taxable Income being adjusted.

Response: Yes, this is possible. States also mentioned the possibility of increased fraud for the same reason. This issue has been relayed to IRS.

6. Legacy processing turnaround will be longer if transmitters miss opportunities to send ELF returns to the IRS. States are concerned EMS may become congested while transmitters

compete for access during the brief windows. The IRS needs to assure states and transmitters that EMS will accommodate peak communication.

Response: IRS has stated that they are confident that EMS/Legacy can accommodate all Legacy volume.

7. States question the wisdom of the IRS restricting legacy ELF usage in light of concerns raised by the Treasury Inspector General for Tax Administration about MeF in the audit report it issued September 29, 2011.

<http://www.treasury.gov/tigta/auditreports/2011reports/201140131fr.html> What impacts do significant MeF processing issues have on ELF usage restrictions? What are IRS and developer contingency plans?

Response: IRS has stated that in the event that MeF becomes unable to process returns, then Legacy usage will be expanded.

8. Since IRS will require large vendors to transmit the majority of their return filings through MeF this season, IRS has eliminated the states ability to have a gradual ramp up of the MeF system. We understand, that if IRS experiences severe issues with MeF, they will direct vendors & states to fall back on EMS. But will IRS quickly allow the same consideration to a state that experiences severe issues with MeF, especially at the various peaks in filing season?

Response: Yes, there will be a process for both state and vendors to contact IRS in the even that they experience severe issues with MeF.

NOTE: The following responses were provided directly by IRS.

9. Some transmitters will not allow 'State only filings'. As a result, if the transmitter needs to e-file State returns, the Federal return would have to be e-filed via legacy, too. Is this allowed?

No. Large (software) companies/transmitters must transmit all federal returns to MeF. They may transmit the state return to EMS as a standalone and only during the EMS hours of operation.

10. Will there be outreach to tax preparers regarding the transmission schedule so tax practitioner and transmitters can maximize the timing of their return filings?

FAQ #7 addresses preparers. Preparers should contact their software providers/transmitters to determine how these rules will impact them. No additional outreach is planned.

11. How will the transmissions from the transmitters be coordinated with state draw downs?

Not sure I understand the question. If by draw down you mean state retrieval, see the answer to question #1 above.

12. Is there a volume limitation for each hour? What is the maximum either within a transmission per State or across States within the transmission windows? What will occur if a transmitter is in the middle of a transmission when the transmission window closes (i.e., does the transmission complete, abort, etc.)?

There is no volume limit imposed on transmitters during the EMS window of operation, and any limitations/maximums within or across transmissions that currently exist will remain unchanged during the EMS window of operation.

13. Will the three one hour transmission windows be expanded around the due date or other high volume periods to accommodate the "last minute" rush and associated volume increases?
No. There is no plan to increase the EMS window of operation during "high" volume periods. EMS will handle the volume.
14. How will the schedule be adjusted if there is system outages? Will IRS have technical assistance staffing associated to the three one hour transmissions windows per day?
If the IRS determines MeF is unavailable, transmitters will be permitted to transmit to EMS until MeF is again available. If EMS experiences an outage, the IRS will make a determination at that time concerning expanding the windows of operations. The usual technical assistance will be available to respond to issues and/or outages.
15. How is this change being communicated to the tax professional community?
The IRS notified the industry on the industry call Tuesday, November 29, 2011. The notification, along with the FAQs, are posted on the IRS web site, and questions about the new rules can be submitted to the IRS through the 1040 mailbox (1040mef@irs.gov). No additional outreach is planned at this time.
16. Does the three one hour transmission windows apply to both transmitters and States? Are the three one hour transmission windows identical for transmitters to submit returns and the ones which States will use to pull returns and sent acknowledgements.
See response to question #1 above.
17. If legacy returns are transmitted as 'State-only', will IRS continue to provide for SSN verification for these returns or not?
Yes.
18. Has the IRS evaluated what the potential volume of transactions which it expects during the three one hour windows. How much excess capacity is available when IRS compares the projected daily volumes and the maximum number of transactions that can be processed in those three one hour windows.
The IRS has determined EMS can handle the volumes during the window of operations. Remember most returns will be filed through MeF, even during the EMS windows of operation.

How quickly will the IRS be able to respond to backlogs by expanding the one hour windows or adding more windows? How will IRS monitor the need for additional windows or windows of longer duration?
The IRS does not anticipate backlogs. However, the IRS is always ready to respond quickly to any issues that may arise.