

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE INTERNAL REVENUE SERVICE (IRS)
SMALL BUSINESS/SELF-EMPLOYED
DIVISION
AND
THE U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR U.S. TRUSTEES**

1. INTRODUCTION:

This Memorandum of Understanding (MOU) between the Internal Revenue Service's (IRS) Small Business/Self-Employed Division (SB/SE) and the U.S. Department of Justice's (DOJ) Executive Office for U.S. Trustees (EOUST) sets forth the agreement of the parties with respect to SB/SE providing EOUST Bankruptcy Allowable Living Expense (BALE) standards.

2. AUTHORITY:

This MOU is entered into between the IRS and EOUST pursuant to the authority vested in the Commissioner of the IRS to enforce and administer the internal revenue laws and the United States Trustee Program's (USTP) authority under 28 USC § 586 and 11 USC §§ 101 et seq. (the "Bankruptcy Code").

This MOU is authorized in accordance with the general cooperative authority provided under the Intergovernmental Cooperation Act, 31 USC § 6505, and in accordance with the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), Pub. L. No. 109-8.

Section 6103 of the Internal Revenue Code (IRC) imposes restrictions on disclosure by IRS of tax information obtained under the authority of the IRC. The terms of this agreement do not provide for the exchange of federal tax information.

3. PURPOSE:

BAPCPA was enacted on April 20, 2005. Section 102 of BAPCPA amended section 707(b) of the Bankruptcy Code to provide that in considering whether the granting of bankruptcy relief would be an abuse of the provisions of chapter 7, certain monthly expenses for certain individual debtors with primarily consumer debts shall be the applicable monthly expense amounts specified under the National Standards, Local Standards, and actual expenses in categories of Other Necessary Expenses issued by the IRS, with certain adjustments. Section 103(a) of BAPCPA gives the Secretary of the Treasury the authority to alter expense

standards of the IRS as needed to accommodate their use in section 707(b) of the Bankruptcy Code.

The IRS National and Local Standards (IRS Standards) referenced in section 102 of BAPCPA are compiled and published annually by SB/SE. EOUST has advised SB/SE that EOUST requires a breakout of certain data in the IRS Standards to facilitate use of the National and Local Standards for bankruptcy form preparation in accordance with section 707(b).

This MOU sets forth the terms pursuant to which SB/SE will break out data from the IRS Standards to provide the Bankruptcy Allowable Living Expenses (BALE) standards to the EOUST.

4. CONTACTS

Contacts for this MOU will be the IRS SB/SE designee, the IRS Governmental Liaison designee and the EOUST designee (see Exhibit A)

5. DESCRIPTION OF THE PARTIES:

A. Internal Revenue Service

The mission of the IRS is to provide America's taxpayers with top quality service by helping them understand and meet their tax responsibilities by applying the tax law with integrity and fairness to all.

SB/SE Research is the developer of, and periodically updates, the IRS Standards required by section 7122(c)(2) of the Internal Revenue Code. The National Standards include expenses for food, housekeeping supplies, apparel and services, personal care products, and a miscellaneous expense category. The Local Standards include expenses for housing, utilities, and transportation.

B. Executive Office for United States Trustees (EOUST)

The USTP is a component of the DOJ responsible for overseeing the administration of bankruptcy cases and private trustees under 28 USC § 586 and the Bankruptcy Code. It consists of 21 regional U.S. Trustee Offices nationwide and an EOUST in Washington, DC. The EOUST has the responsibility for implementing certain provisions set forth in BAPCPA, including the "means test."

The USTP protects the integrity of the nation's bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws. BAPCPA gave the USTP additional responsibilities in certain areas, including implementing the new "means test" under section 707(b) of the Bankruptcy Code, to determine whether a debtor is eligible for Chapter 7 (liquidation) relief.

6. DUTIES AND RESPONSIBILITIES OF THE IRS:

SB/SE will provide EOUST with two sets of tables, labeled as (a) BALE Housing Related Costs and (b) BALE National Standards, which SB/SE will compile from the IRS Standards. Additionally, IRS SB/SE will provide pre-publication data from the IRS Allowable Living Expenses for Transportation Expense Standards, National Standards, Out-of-Pocket Health Care Expenses, and Housing and Utilities Standards.

A. BALE Housing Related Costs Tables

The IRS local standards include a housing allowance combining mortgage and utilities. The Bankruptcy standards have a mortgage allowance and a separate allowance for utilities. SB/SE will use the special Census extract provided by EOUST to subdivide the IRS Housing Allowance into the Bankruptcy allowance. At the same time, SB/SE will provide the pre-publication Allowable Living Expenses Housing and Utilities (combined) standards.

B. BALE National Standards.

SB/SE will break out the data in the IRS National Standards to create a table that reflects only the total of the Food and the Apparel & Services categories. The IRS National Standards, with the break-out of the Food and the Apparel & Services categories, will be labeled the BALE National Standards.

SB/SE will supply the EOUST with an update to the BALE National Standards annually at the time that SB/SE updates the IRS National Standards.

If for any year SB/SE does not revise the IRS Standards, it will notify the EOUST by November 15th and SB/SE will have no obligation to supply revised BALE Housing Related Costs or revised BALE National Standards.

SB/SE is compiling breakout data for the BALE standards solely at the request of EOUST. Any revisions the IRS makes to the methodology or content of its standards shall not be constrained by this agreement. The IRS Standards used in tax administration will not be altered or otherwise changed as a result of any provision in this MOU. In future years IRS may change the methodology used to derive these standards. If the methods change, SB/SE Research will derive similar standards for use in Bankruptcy means testing.

At the same time, SB/SE will provide the pre-publication Allowable Living Expenses National Standards (the original version without the bankruptcy-related breakouts).

SB/SE, on the IRS website page listing the IRS Standards for taxpayers, will include a statement advising viewers that the BALE standards used in

bankruptcy cases are available from the EOUST and will provide a link to the EOUST website.

C. IRS Allowable Living Expenses for Transportation Expense Standards

SB/SE will provide pre-publication data from the IRS Allowable Living Expenses for Transportation Expense Standards, including definitions for Metropolitan Statistical Areas (MSAs) for each Census region, contemporaneously with the Bankruptcy Allowable Living Expense tables.

D. IRS Allowable Living Expenses for Out-of-Pocket Health Care Expenses

SB/SE will provide pre-publication data from the IRS Allowable Living Expenses for Out-of-Pocket Health Care Expenses contemporaneously with the Bankruptcy Allowable Living Expense tables.

7. DUTIES AND RESPONSIBILITIES OF EOUST:

EOUST will acquire from Census the necessary data to revise the IRS Local Housing and Utilities tables of the Local Standards and provide it to SB/SE.

EOUST agrees not to release or post any shared prepublication data with the public with respect to the IRS Standards for a calendar year until after the IRS has released the standards to the public. SB/SE will notify EOUST as soon as the IRS determines the release date.

EOUST, on the USTP website page listing the IRS Standards for bankruptcy form preparation purposes, will include a statement advising viewers that the BALE standards are not used by the IRS for tax administration purposes and will provide a link to the IRS website for viewers seeking to resolve delinquent tax accounts.

In the event SB/SE advises that the costs of performing its obligations under this MOU will exceed a de minimis amount, EOUST agrees to enter into an Economy Act agreement (31 USC § 1535) with SB/SE, pursuant to which EOUST would reimburse SB/SE's costs.

8. TRANSMITTAL PROCEDURES

The IRS and EOUST shall transmit the statistical information via secure email.

9. LIABILITY

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

Neither the IRS nor the EOUST shall 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.

This MOU does not constitute a financial obligation or serve as the basis for any expenditure. To implement this MOU, each agency will utilize its own resources and expend its own funds pursuant to its own statutory authority. Any obligation of funds will be accomplished through other appropriate documents.

10. THIRD PARTY RIGHTS

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

11. PRIVACY

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

12. EFFECTIVE DATE

The effective date of this MOU is the date it has been signed by all parties to the Agreement. This MOU will be effective upon the latest date on which both the signatures of the IRS and EOUST authorized representatives have been executed below (the "Effective Date").

13. AMENDMENT OF MOU

The MOU may be amended by written agreement of the undersigned, their successor or someone with authority to act for them.

14. LIMITATIONS

The terms of this MOU are not intended to alter, amend, or rescind any current agreement or provision of federal law now in effect. Any provision of this MOU which conflicts with federal law will be null and void. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but is a basic statement of the understanding between the IRS and EOUST. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies.

15. EVALUATION OF AGREEMENT

The IRS and the EOUST will review this MOU every three (3) years to determine whether the provisions of this Agreement require amendment or revision and whether EOUST is complying with the provisions of the Agreement. The method of review (conference call, meeting, email) will be jointly determined by the IRS Governmental Liaison, Business Operating Divisions, and the EOUST Liaison.

16. TERMINATION OF MOU

This agreement becomes effective upon the signing of both parties. This agreement may be modified in writing by mutual consent of both agencies. The agreement may be cancelled by either party by giving ninety (90) days advance written notice prior to the date of cancellation.

17. PUBLIC INFORMATION COORDINATION

Public disclosure of information regarding EOUST's revised versions of the IRS' Standards described in this MOU will be subject to the Freedom of Information Act (5 USC § 552). For information not subject by law to mandatory disclosure, the parties shall consult regarding any disclosure of requested information.

Release to the press, public announcements, and communication with Congress concerning the revised tables specified in this MOU may be made jointly or by either agency following coordination with the other agency.

18. EFFECT ON OTHER ACTIVITIES

This MOU is an internal government agreement designed to improve the efficiency of government and does not confer any rights on any other party. Nothing in this MOU shall be interpreted as limiting, superseding, or otherwise affecting the agencies' normal operations in carrying out their statutory or regulatory duties. This MOU does not limit or restrict either agency from participating in similar activities or arrangements with other entities.

Except as otherwise expressly provided herein, this MOU constitutes the entire agreement between SB/SE and EOUST for the matters set forth herein and supersedes any documents prepared before this MOU to the extent that those documents may be inconsistent with this MOU. Nothing in this MOU precludes SB/SE and EOUST from agreeing to amendments to this MOU.

Representatives of the SB/SE and EOUST will meet as necessary to accomplish the purposes of this MOU. The Director of SB/SE Research and the EOUST Deputy Assistant Director for Planning and Evaluation each will keep the other informed, either directly or through designees, of any new program,

activity or project that may be initiated or any augmentation or revision of an existing program, activity, or project.

19. SIGNATURES

INTERNAL REVENUE SERVICE

By: _____
Darren John Guillot, Deputy Commissioner,
Small Business/Self-Employed Collection and Operations Support

5 May 2022
Date: _____

By: _____
Maha H. Williams, Acting Deputy Commissioner,
Small Business/Self-Employed Examination

Date: _____

DEPARTMENT OF JUSTICE/UNITED STATES TRUSTEE PROGRAM

By: _____
Henry Hensley
Deputy Director for Management

Date: _____

Exhibit A - Points of Contact

Each party shall have a point of contact to address programmatic aspects and issues arising out of this agreement and the application of the provisions cited therein. The points of contact are as follows:

For the Department of Treasury, Internal Revenue Service (IRS):

Cynthia Cooper
Revenue Officer, Collection Policy
Internal Revenue Service
104 N Main Street Suite 301
Gainesville, FL 32601-3314
352-548-1404

John DeWald
Lead Economist
Internal Revenue Service
228 Walnut Street
Harrisburg, PA 17108-9901
717-777-9660

Kareem Williams
Director SB/SE Collection Policy
Internal Revenue Service
1111 Constitution Ave NW
Washington DC 20224-0002
267-847-8978

Kathryn Greene
Director SB/SE Research
Internal Revenue Service
1111 Constitution Ave NW
Washington DC 20224-0002
240-613-6617

For the Department of Justice, Executive Office for U.S. Trustees (EOUST):

Christopher Haverstock
Deputy Assistant Director for Planning and Evaluation
Executive Office for U.S. Trustees
441 G Street NW, Suite 6150
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202-353-4266
Christopher.Haverstock@usdoj.gov

Adam Herring
Associate General Counsel for Consumer Practice
Executive Office for U.S. Trustees
Trustees
441 G Street NW, Suite 6150
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202-305-7833
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Lisa Tracy
Deputy General Counsel
Executive Office for U.S.
Trustees
441 G Street NW, Suite 6150
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Governmental Liaison Designee:

Colleen Krause
970-495-1352
Colleen.S.Krause@irs.gov