280-RICR-20-30-1

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 30 – FILING

Part 1 – Payment of Taxes by Electronic Funds Transfer

1.1 Purpose

This regulation implements R.I. Gen. Laws §§ 44-19-10.3, ~~and~~ 44-30-71, and 44-30-85.1. These ~~Chapters~~ Sections require certain taxpayers to make payments by Electronic Funds Transfer with the Division of Taxation.

1.2 Authority

This regulation is promulgated pursuant to R.I. Gen. Laws ~~Chapter~~§§ 44-1-4, 44-1-31, 44-19-33, and 44-30-95(a), as amended. These rules have been prepared in accordance with the requirements of R.I. Gen. Laws § 42-35-1 et seq. of the Rhode Island Administrative Procedures Act ~~Chapter 44-1 and § 44-1-31.1~~.

1.3 Application

The terms and provisions of these rules and regulations shall be liberally construed to permit the Division of Taxation to effectuate the purposes of R.I. Gen. Laws § 44-1-31~~.1~~ and other applicable state laws and regulations.

1.4 Severability

If any provision of this regulation, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of this regulation shall not be affected thereby.

1.5 Definitions

A. "ACH" or "Automated clearing house" means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions. An automated clearing house may be a Federal Reserve Bank or any organization with an operating agreement with NACHA that operates as a processing agent for ACH transactions between financial institutions.

B. "ACH credit" means an electronic transfer of funds using the ACH network that is originated by a taxpayer through its financial institution to credit (deposit) funds to a designated State of Rhode Island bank account and debit (withdraw) funds from the taxpayer's bank account for a specified payment amount.

C. "ACH debit" means an electronic transfer of funds initiated by Rhode Island Division of Taxation, upon taxpayer instruction, to debit a taxpayer's designated bank account and credit funds to a designated State of Rhode Island bank account.

D. "Addenda record" means an ACH record type that carries the supplemental data needed to completely identify a taxpayer's tax payment.

~~E. "CCD+," means the standard ACH transaction format that is accompanied by one addenda record when submitted to Rhode Island Division of Taxation.~~

~~F~~E. "Effective date" or "Effective entry date" means the date specified by the originator on which it intends a payment to be settled. The "Effective Date" specified by a taxpayer or service provider is the date it intends the payment to be deposited into a State of Rhode Island bank account.

1. Note: NACHA Rules state that for credit entries, "... the effective entry date shall be either one or two banking days following the banking day of process as established by the Originating ACH Operator (the processing date)."

~~G~~F. "EFT" or "Electronic funds transfer" means a standard ACH funds transfer to credit or debit a bank account or wire transfer. Electronic funds transfer does not include payments by check, draft or similar paper instrument.

~~H~~G. "Look back period" means the previous calendar year used by the Rhode Island Division of Taxation in order to determine whether EFT thresholds, based on reported tax liability, are met or exceeded.

~~I~~H. "NACHA" or "North American Clearing House Association" means the national regulatory body that establishes the standards, rules and procedures governing the ACH Network.

~~J~~I. "Pre-notification" or "Pre-note" means a zero dollar entry that may be sent through the ACH at least seven (7) business days prior to live entries affecting an account at a financial institution.

~~K. "RTN/ABA number" means the routing transit and American Banking Association numbers assigned to financial institutions. This is a nine-digit number with position nine computed according to a check-digit formula.~~

~~L~~J. "Settlement date," "Deposit date" or "Payment date" means the date an electronic payment is deposited in a bank account designated by the State of Rhode Island for deposit of electronic tax payments. The dates also include the date a prenotification transaction occurs. Generally, the "settlement date" is the same as the effective entry date.

~~M. "Standard EFT payment methods" means the ACH credit method or the ACH debit method of electronic funds transfer.~~

~~N. "Tax payment convention" or "TXP" means the standard format developed by the Federation of Tax Administrators and the Banker's EDI Council of NACHA and approved by the Banker's EDI Council of NACHA that identifies tax payments in the addenda record portion of a CCD+ ACH transaction.~~

K~~O~~. "Wire transfer" or "Bank wire" means the same day transfer of funds from a depositor's account to a State of Rhode Island bank account. Fed-wires do not contain a standard addenda record and may be used only in an emergency situation.

P~~L~~. "Zero dollar payment" means a pre-notification-type transaction that is formatted as a payment and contains an addenda record.

1.6 Electronic Funds Transfer Mandate

A. ~~Generally.~~When to File and/or Pay by Electronic Funds Transfer.

1. Effective January 1, 2010, any person with an average monthly sales and use tax liability of two hundred dollars ($200) or more per month for the look back period~~,~~ shall remit said payments by electronic funds transfer.

2. Any person required to withhold and remit tax under R.I. Gen. Laws § 44-30-71 with ten (10) or more employees, over the course of the look back period, must make the withholding tax payments by electronic funds transfer.

3. Effective January 1, 2020, pursuant to R.I. Gen. Laws § 44-30-85.1, any employer that withheld two hundred dollars ($200) or more per month on average for the look back period must submit withholding tax returns and payments by electronic funds transfer or other electronic filing system.

4~~2~~. ~~However, a~~Any person who has a liability of ten thousand dollars ($10,000) or more in connection with the filing of any return, report or other document with the Division of Taxation is required to remit tax payments for the relevant tax type electronically using either the ACH credit or ACH debit method. Provided, however, payment of personal income taxes by individuals shall not be subject to the requirement for Electronic Funds Transfer except that employer's withholding of taxes shall be subject to Electronic Funds Transfer.

B. Notification by Rhode Island Division of Taxation.

1. The Rhode Island Division of Taxation will periodically review the payment histories of taxpayers, employing the look back period on a tax-specific

basis, in order to determine which persons are required to make payments via EFT.

a. When the Division of Taxation determines that a person is liable for making payments electronically, the person will be notified and provided with the necessary registration forms or, in the case of internet filing, the internet address to establish an EFT account with the Division of Taxation.

b. The taxpayer has thirty (30) days after such notification to complete and return registration materials.

1.7 Forms Requirements

Refer to ~~"Electronic Tax Filing Guide", IRS~~ Publication 1345 ("Handbook for Authorized IRS E-file Providers of Individual Income Tax Returns"), ~~found at www.tax.ri.gov/gov/documents/elf/handbook.pdf~~ for information on filing tax reports/forms when tax payments are remitted via EFT.

1.8 Penalty for Non-compliance

A. Insufficient ~~f~~Funds.

1. Payments made by electronic funds transfer are subject to the interest and penalty provisions if the payment is deemed late. EFT deposits to a designated State of Rhode Island bank account that are reversed by the State's depository bank due to insufficient funds in the originator's account are subject to the late filing and late payment penalties.

B. Failure to ~~f~~File ~~e~~Electronically.

1. R.I. Gen. Laws §§ 44-19-10.3, ~~and~~ 44-30-71, and 44-30-85.1 provide~~s~~ that if any person fails to remit said taxes by electronic funds transfer or other electronic means defined by the tax administrator as required hereunder, the amount of tax required to have been electronically transferred shall be increased by the lesser of:

a. ~~f~~Five percent (5%) of the amount that was not so transferred, or;

b. ~~f~~Five hundred dollars ($500), whichever is less, unless there was reasonable cause for the failure and such failure was not due to negligence or willful neglect.

1.9 Authority to Waive the Electronic Funds Transfer Mandate

A. A taxpayer may make a written request to the EFT Section for waiver from mandatory EFT participation for good cause. Good cause determinations will be

made on a case-by-case basis. The following will generally be considered by the Tax Administrator to constitute good cause:

1. The taxpayer's bank does not participate in ACH in any form. The taxpayer must provide a letter from its financial institution.

2. The taxpayer's current tax liability and reporting trend shows a decline in the amount of reported tax liability. If projected into the future, the tax liability will not meet or exceed the applicable mandatory threshold amount.

3. The taxpayer's tax liability during the look back period no longer meets or exceeds the applicable mandatory threshold amount.

4. The taxpayer's tax liability meets or exceeds the applicable mandatory threshold amount only because of uncharacteristically high tax amounts reported in three (3) or fewer months of the look back period. However, good cause does not exist under this paragraph in the case of a person reporting withholding tax on a quarterly basis.

5. The taxpayer is under the payroll administration of the federal government.

6. The taxpayer is required to file three (3) or fewer times per year.

B. Waiver requests should be sent to the following address:

Rhode Island Division of Taxation

~~Tax Administrator~~EFT Section

One Capitol Hill

Providence, RI 02908

1. The waiver request must include a detailed explanation as to why the mandate should not apply.