

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 30 – FILING

Part 1 – Filing of Tax Returns and Remittance of Taxes by Electronic Transmission

1.1 Purpose

This Regulation implements R.I. Gen. Laws §§ 44-1-31.2, 44-19-10.3, 44-30-71, and 44-30-85.1. These Sections require certain taxpayers file returns electronically and/or 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 §§ 44-1-4, 44-1-31, 44-1-31.2, 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.

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, 44-1-31.2, 44-19-33, and 44-30-95(a) 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.
 - 1. Note: Any payment initiated through the Division of Taxation taxpayer portal, Modernized Electronic Filing (MEF) system, or remitted in bulk through a preauthorized method is deemed to be filed by an electronic method.
- D. "Addenda record" means an ACH record type that carries the supplemental data needed to completely identify a taxpayer's tax payment.
- E. "Effective date" means the date in which the originator submits payment in good faith to the Division of Taxation in a manner prescribed by the Division. When unknown, the effective date will be the settlement date.
- 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.
- G. "Electronic filing" means the submission of a tax return through the Division of Taxation online taxpayer portal, the Modernized Electronic Filing (MEF) system administered by the Internal Revenue Service (IRS), streamline sales tax return, and bulk electronic filings by third party providers.
- H. "Electronic payment" means submission of payments through the Division of Taxation online taxpayer portal, payments through MEF, single or bulk electronic payments by third party providers, payments made by EFT, and payments through an authorized credit card processor.
- I. "Electronic transmission" means either Electronic Filing or Electronic Payment as applicable.
- J. "Larger business registrant" means a person who:
 - 1. Operates as a business whose combined annual liability for all taxes administered by the Division of Taxation for the entity is or exceeds five thousand dollars (\$5,000.00); or
 - 2. Operated as a business whose annual gross income is over one hundred thousand dollars (\$100,000.00) for the entity.

- K. "Look back period" means the previous calendar year used by the Rhode Island Division of Taxation in order to determine whether electronic transmission thresholds, based on reported tax liability and/or reported gross income, are met or exceeded.
- L. "MEF" means the Modernized Electronic Filing system through a tax preparation software preapproved by the Division of Taxation.
- M. "Nacha" means the national regulatory body that establishes the standards, Rules, and procedures governing the ACH Network.
- N. "Person" as used in this Regulation means, but is not limited to, any individual, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited liability partnership, association, or corporation responsible to file and/or pay a tax liability to the State of Rhode Island.
- O. "Settlement 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.
- P. "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 with prior approval from the Division of Taxation.

1.6 Electronic Transmission Mandate

- A. Electronic Payment Requirements.
 - 1. Effective January 1, 2010, any person with an average monthly sales and use tax liability of two hundred dollars (\$200.00) or more per month for the look back period must submit electronic payment in accordance with R.I. Gen. Laws § 44-19-10.3.
 - 2. Any person with ten (10) or more employees required to withhold and remit tax must submit electronic payment in accordance with R.I. Gen. Laws § 44-30-71.
 - 3. Effective January 1, 2020, any employer that withheld two hundred dollars (\$200.00) or more per month on average for the look back period must submit by electronic payment in accordance with R.I. Gen. Laws § 44-30-85.1.
 - 4. Any person who has a liability of ten thousand dollars (\$10,000.00) or more in connection with the filing of any return, report or other document with the Division of Taxation is required to submit electronic payment in accordance with R.I. Gen. Laws § 44-1-31. Provided, however, payment

of personal income taxes by individuals shall not be subject to the requirement for electronic payment except that employer's withholding of taxes shall be subject to electronic payment.

5. Beginning on January 1, 2023, any larger business registrant must submit electronic payment in accordance with R.I. Gen. Laws § 44-1-31.2. Individuals and trusts filing personal or fiduciary income tax returns are not larger business registrants for the purposes of R.I. Gen. Laws § 44-1-31.2.

B. Electronic Filing Requirements

1. Effective January 1, 2020, pursuant to R.I. Gen. Laws § 44-30-85.1, any employer that withheld two hundred dollars (\$200.00) or more per month on average for the look back period must submit an electronic filing.
2. Beginning on January 1, 2023, any larger business registrant must submit electronic filings in accordance with R.I. Gen. Laws § 44-1-31.2. Individuals and trusts filing personal or fiduciary income tax returns are not larger business registrants for the purposes of § 44-1-31.2.

C. Notification by Rhode Island Division of Taxation

1. The Division of Taxation periodically will review taxpayers' payment histories, employing the look back period, to determine if taxpayers are required to make electronic filings and payments as set forth herein and under applicable laws. In situations where a taxpayer reaches the threshold during a partial year, that period of time may be used as the look back period.
 - a. When the Division of Taxation determines that a person is liable for making payments electronically, the person will be notified of their electronic filing and payment mandate with the Division of Taxation.
 - b. The taxpayer has thirty (30) days after such notification to comply with the requirements after which a taxpayer may be subject to the penalties in § 1.8 of this Regulation.

1.7 ACH Credit Details

A. An ACH credit submission is required to meet the following criteria:

1. The addenda record must include all information and be in the format as provided in the Authorization Agreement form (RI-EFT-1).
2. Arrangements must be made through the taxpayer's bank to set up the process for submitting the ACH credit payments.

3. For a payment to be timely, the effective date must be on or before the due date for the liability. That is, payment must be completed by the taxpayer's bank in time to be received by the payment due date. All payments received after the due date are late payments and will accrue interest and penalty as applicable.
4. Submission of an ACH credit payment does not constitute the filing of a tax return. All tax returns subject to the electronic filing mandate must be filed electronically. Failure to file such returns electronically will result in the assessment of a penalty.

1.8 Penalty for Non-compliance

A. Insufficient Funds and Other Bank Reversals

Payments towards tax liability 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, or for other reasons, are subject to the late filing and late payment penalties in accordance with the applicable statutes.

B. Failure to Pay Electronically.

1. R.I. Gen. Laws §§ 44-1-31.2(c), 44-19-10.3, 44-30-71, and 44-30-85.1 provide 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. Five percent (5%) of the amount that was not so transferred, or;
 - b. Five hundred dollars (\$500.00), whichever is less, unless there was reasonable cause for the failure and such failure was not due to negligence or willful neglect.

C. Failure to File Electronically.

R.I. Gen. Laws §§ 44-1-31.2(d) and 44-30-85.1(3) provide that any person subject to the electronic filing requirements that fails to file a return by electronic transmission shall have added to the tax an amount equal to fifty dollars (\$50.00) 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 Transmission Mandate

- A. A taxpayer may make a written request to the Division of Taxation for waiver from mandatory electronic transmission requirements 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 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.
2. The taxpayer's tax liability or gross income amount during the look back period no longer meets or exceeds the applicable mandatory threshold amount.
3. The taxpayer's tax liability or gross income amount meets or exceeds the applicable mandatory threshold amount only because of uncharacteristically high tax amounts or income 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.
4. The taxpayer is under the payroll administration of the federal government.
5. The imposition of the electronic transmission mandate causes an undue hardship on the person.

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

Rhode Island Division of Taxation

Electronic Mandate Waiver Request

One Capitol Hill

Providence, RI 02908

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

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PART 1 - PAYMENT OF TAXES BY ELECTRONIC FUNDS TRANSFER (280-RICR-20-30-1)

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