

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Cate Zeuske, Secretary of the Department of Revenue and custodian of the official records, certify that the annexed rule, relating to electronic funds transfer, was duly approved and adopted by this department on August 10, 1999.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 10 day of August, 1999.

Cate Zeuske

Cate Zeuske
Secretary of Revenue

e:rules112 Adopt - Certificate



ORDER OF THE DEPARTMENT OF REVENUE
CREATING RULES



The Wisconsin Department of Revenue adopts an order to create Tax 1.12, relating to electronic funds transfer.

Analysis by the Department of Revenue

Statutory authority: ss. 73.029 and 227.11(2)(a), Stats.

Statutes interpreted: ss. 71.01(8r), 71.42(3m), 71.63(1m) and (5m), 71.65(3)(a), 73.029, 77.58(1m), 77.61(14), 77.96(5m), 78.12(5), 78.55(5m), 139.01(5m), 139.30(8m) and 139.75(5m), Stats.

SECTION 1. Tax 1.12 is created to permit the Department of Revenue to require electronic funds transfer, or "EFT," to pay or deposit certain taxes and fees, including but not limited to corporate income and franchise tax; income tax withholding; general, county and special district, or "stadium," sales and use tax; fermented malt beverages tax; liquor, or "distilled spirits and wine," tax and administrative fee; cigarette tax; tobacco products tax; alternate fuels tax; general aviation fuel tax; motor vehicle fuel tax and petroleum inspection fee; and individual and fiduciary income tax, when the amounts due in the prior year equaled or exceeded a specified amount. The rule is being promulgated because it is the only method by which the department may require EFT as a payment method, as a result of the creation of s. 73.029, Stats., by 1997 Wis. Act 27.

In addition to providing for EFT payment requirements, the rule also provides information for taxpayers who elect to use EFT.

SECTION 1. Tax 1.12 is created to read:

Tax 1.12 **Electronic funds transfer**. (1) SCOPE. This section applies to any person who is required to or elects to pay or deposit taxes or fees by electronic funds transfer, or "EFT."

(2) PURPOSE. The purpose of this section is to specify which taxes and fees are required to be paid or deposited using the EFT payment method, to provide that certain persons not required to use the EFT payment method may elect to do so and to explain the procedures for using EFT.

(3) DEFINITIONS. In this section:

(a) "ACH" means automated clearing house, a central clearing facility operated by a federal reserve bank or a private sector organization on behalf of depository financial institutions in which depository financial institutions transmit or receive ACH entries.

(b) "ACH credit" means the EFT payment option in which the payer initiates the transfer of funds by authorizing the payer's financial institution to transfer the payment amount to the department's depository bank.

(c) "ACH debit" means the EFT payment option in which the payer initiates the transfer of funds by authorizing the department's depository bank to transfer the payment amount from the payer's account.

(d) "Electronic funds transfer" or "EFT" means any transfer of funds initiated through a terminal, telephone, computer or magnetic tape authorizing a financial institution to debit or credit an account for next day settlement.

Note: The EFT payment method allows funds to be transferred electronically from the payer's financial institution to the department's depository bank eliminating the need to prepare and process a paper check.

(e) "Entry" means an electronic item representing the transfer of funds in the ACH system.

(f) "Financial institution" means any bank, savings and loan, credit union, industrial bank or other institution organized under either national or state banking laws capable of both accepting deposits and making loans.

(g) "Payer" means any person who is required to or elects to pay or deposit taxes or fees by electronic funds transfer.

(h) "Settle" or "settlement" means to transfer funds, or a transfer of funds, between two parties in cash or negotiable items or on the books of a mutual depository to complete one or more prior transactions and made subject to a final accounting.

(i) "Settlement date" means the date on which an exchange of funds with respect to an entry or entries is reflected on the books of the department's depository bank.

(j) "Trace number" means a character code uniquely identifying each ACH entry.

(4) REQUIREMENT OR ELECTION TO USE EFT. (a) Except as provided in sub. (11), the department requires a person who owes taxes and fees as described in subds. 1. to 11. to

pay or deposit the taxes and fees using the EFT payment method. The following taxes and fees are included in the EFT payment requirement:

1. Corporate income and franchise tax estimated tax payments and tax due with the tax return when the net tax less refundable credits on the prior year's tax return was \$40,000 or more.

2. Income tax withholding payments when the required deposits were \$10,000 or more in the prior calendar year.

3. General, county and stadium sales and use tax when the aggregate amount due in the prior calendar year was \$10,000 or more.

Note: See s. Tax 11.001(4) for the definition of stadium tax.

4. Fermented malt beverages tax when the tax due after the adjustment for any overpayment or additional amount due for a previous period was \$40,000 or more in the prior calendar year.

5. Liquor or "distilled spirits and wine" tax and administrative fee when the aggregate net amount of tax and fee due in the prior calendar year was \$40,000 or more.

6. Cigarette tax when the net tax due before printing and shipping costs was \$40,000 or more in the prior calendar year.

7. Tobacco products tax when the tax due in the prior calendar year was \$40,000 or more.

8. Alternate fuels tax when the total tax due in the prior calendar year was \$40,000 or more.

9. General aviation fuel tax when the tax due in the prior calendar year was \$40,000 or more.

10. Motor vehicle fuel tax and petroleum inspection fee when the aggregate amount due in the prior calendar year was \$40,000 or more.

11. Individual and fiduciary income tax estimated tax payments when the estimated tax payments as required under s. 71.09, Stats., were \$40,000 or more in the prior taxable year.

(b) Any person not required to use the EFT payment method under par. (a) may elect to use the EFT payment method to pay or deposit the taxes or fees specified in par. (a).

(5) DATE FIRST EFT PAYMENT REQUIRED. The department shall notify a person when EFT payments or deposits are required. A 90-day EFT registration period shall follow the notification. The first required EFT payment or deposit shall be due on the first payment or deposit due date following the end of the registration period.

Example: An employer required to make semi-monthly deposits of withholding tax is notified of the EFT requirement on November 10, 1999. The first EFT deposit is due February 15, 2000, which is the first deposit due date following the end of the 90-day registration period.

(6) REGISTRATION FOR EFT. (a) Payers shall register with the department to use the EFT payment method before making EFT payments or deposits. Payers required to pay or deposit by EFT shall be notified by the department as provided in sub. (5) and given registration instructions. Persons who elect to pay or deposit by EFT may request an EFT registration packet from the department.

Note: A request for an EFT registration packet may be made by calling the department's forms request line at (608)266-1961, or by writing to Forms Request Office, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903.

(b) As part of the registration process, the payer shall provide a signed authorization statement to the department authorizing the department to make ACH debit transfers through its depository bank or to receive ACH credit transfers from the payer's financial institution.

(7) EFT PAYMENT PROCEDURES. EFT payments or deposits shall be credited by the department directly to the payer's tax account. The payer may use the ACH debit or ACH credit transfer option, or both, as follows:

(a) *ACH debit transfers.* 1. ACH debit transfers shall be made using a touch tone telephone, a computer with a modem or another department approved method. A toll free telephone number and voice instructions shall be provided by the department for the payer to

use when initiating an ACH debit transfer via telephone. Required payment information includes the tax type code for the tax being paid, the tax period date to which the payment should be applied, the amount of the payment and the effective date of the payment.

Note: written requests for department approval of another ACH debit transfer method should be addressed to Electronic FundsTransfer, Wisconsin Department of Revenue, P.O. Box 8912, Madison WI 53708-8912.

2. The payer shall initiate ACH debit transfers before 4:00 p.m. central standard time or central daylight savings time, as applicable, at least one business day before the prescribed due date of the payment in order for the payment to have a settlement date on or before the prescribed due date.

(b) *ACH credit transfers.* 1. A payer shall initiate ACH credit transfers through the payer's financial institution following directions specific to that financial institution.

2. In order for the payment to have a settlement date on or before the prescribed due date, ACH credit transfers shall be initiated in time for the payer's financial institution to settle the funds transfer on or before the due date of the payment.

(8) COSTS TO INITIATE EFT. (a) ACH debit transfers shall occur at no cost to the payer.

(b) Payers using ACH credit transfers are liable for any fees charged by the payer's financial institution.

(9) EVIDENCE OF EFT PAYMENT. A payer receives a trace number for each EFT transaction. The trace number given to the payer during the EFT transaction and included as part of the ACH entry is the payer's confirmation of payment or deposit and shall provide proof of the date and amount of the payment or deposit.

(10) DUE DATE OF EFT PAYMENT. (a) In order for EFT payments and deposits to be considered received on or before the prescribed due date, EFT payments or deposits shall have a settlement date on or before the prescribed due date, or the revised due date as provided in par. (c), of the payment or deposit.

(b) Payments or deposits made by EFT with a settlement date later than the prescribed due date or revised due date of the payment or deposit shall be considered late and shall be subject to all applicable late fees, penalties and interest.

(c) When the prescribed due date falls on a weekend or legal holiday, the payment due date is revised to be the first business day immediately following the weekend or holiday.

Example: If the prescribed due date falls on a Monday which is also memorial day, an ACH debit transfer must be initiated on or before the preceding Friday so that it has a settlement date on or before the following Tuesday, when the payment is due. A payer using an ACH credit transfer must work with the financial institution to initiate the transfer in time to settle on or before the revised payment due date.

(11) EXCEPTION TO EFT REQUIREMENT. (a) The secretary of revenue may waive the requirement to use the EFT payment method when the secretary determines that the requirement causes an undue hardship, if the person otherwise required to use EFT does all of the following:

1. Requests the waiver in writing.

Note: Written waiver requests should be addressed to Electronic Funds Transfer, Wisconsin Department of Revenue, P.O. Box 8912, Madison, WI 53708-8912.

2. Clearly indicates why the requirement causes an undue hardship.
3. Is current in all return and report filings and tax payments.

(b) In determining whether the EFT requirement causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances which may prevent the payer from using the EFT method.

Examples: Examples of unusual circumstances include:

- 1) The person does not have access to a touch tone telephone.
 - 2) The person is physically unable to use a touch tone telephone.
 - 3) The telephone system available to the person is incompatible with the department's telephone system used for EFT registration or payments, or both.
2. Any other factor which the secretary determines is pertinent.

Note: Section Tax 1.12 interprets ss. 71.01(8r), 71.42(3m), 71.63(1m) and (5m), 71.65(3)(a), 73.029, 77.58(1m), 77.61(14), 77.96(5m), 78.12(5), 78.55(5m), 139.01(5m), 139.30(8m) and 139.75(5m), Stats.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: 8/10/99 By: Cate Zeuske
Cate Zeuske
Secretary of Revenue

e:rules/112 Adopt - Order

FISCAL ESTIMATE
DOA-2048 N(R10/94)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

Electronic Funds Transfer

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No Local Government Costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:

- Towns
- Villages
- Cities
- Counties
- Others _____
- School Districts
- WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Tax 1.12 is created to permit the Department of Revenue (DOR) to require electronic funds transfer (EFT) to pay income, sales and excise taxes. In general, EFT could be required for persons or businesses with prior calendar year deposits of \$40,000 or more. For income tax withholding and sales tax, EFT could be required for those with prior calendar year deposits of \$10,000 or more. EFT could be accomplished by debit transfers with costs paid by DOR or credit transfers with costs paid by the taxpayer. The department may waive the EFT requirement in specific cases.

In August 1998, approximately 30% of withholding collections came from voluntary use of EFT. It is not currently possible to use EFT for sales tax deposits. The rule would not have a significant effect on state tax collections. With increased EFT, state GPR investment income could increase by perhaps \$1 million annually because funds would be available sooner than without EFT. Some of this increase would be from voluntary use of EFT, and some from required use.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department Of Revenue Bruce Biermeier, 266-7396	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	10/7/98

1997 Session

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB OR Bill No./Adm. Rule No.	Amendment No.
Tax 1.12	

Subject

Electronic Funds Transfer

I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe	\$	\$ -
(FTE Position Changes)	(FTE)	(FTE)
State Operations-Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned	See Text	-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$ See Text	\$ -

NET ANNUALIZED FISCAL IMPACT
STATE

LOCAL

NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ See Text	\$ _____

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department Of Revenue Bruce Biermeier, 266-7396	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	10/7/98



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

August 11, 1999

Gary L Poulson Deputy Revisor
131 W Wilson St Ste 800
Madison WI 53703-3233

Re: Clearinghouse Rule 99-035

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to electronic funds transfer.

These materials are filed with you pursuant to s. 227.20(1), Stats.

The rule order has also been e-mailed to you. If you have any questions regarding the rule order, please contact Mark Wipperfurth at 266-8253 or mwipperf@dor.state.wi.us.

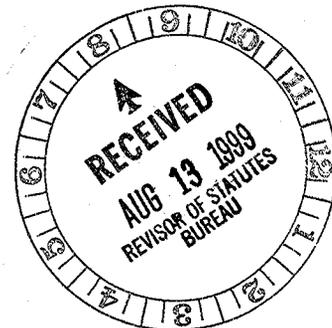
Sincerely,

Cate Zeuske
Secretary of Revenue

CZ:MPW:cil
e:rules112 Adopt - Revisor

Enclosure

cc: Douglas J. La Follette, Secretary of State
Commerce Clearinghouse, Inc.
Research Institute of America, Inc.





State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

August 11, 1999

Douglas La Follette Secretary of State
30 W Mifflin St 10th Fl
Madison WI 53703

Dear Secretary La Follette

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 99-035.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,

Cate Zeuske
Secretary of Revenue

CZ:MPW:cil
e:rules\112 Adopt – Secretary of State

Enclosure

cc: Deputy Revisor