

11.13.13

# Regulatory Analysis Form

(Completed by Promulgating Agency)

*INDEPENDENT REGULATORY  
REVIEW COMMISSION*

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Revenue

(2) Agency Number:

Identification Number: #15-458

IRRC Number:

(3) PA Code Cite: 61 Pa. Code §§ 5.3 and 5.7

(4) Short Title:

Payments by Electronic Funds Transfer

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Mary Sprunk (717) 783-7524

Secondary Contact: Douglas A. Berguson: (717) 346-4633

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

Implement statutory change enacted under Act 71 of July 18, 2013 (P.L. \_\_\_\_, No. 71) (SB 591, PN 1328). The act authorizes the Secretary of Revenue and the State Treasurer to jointly promulgate a regulation to lower the electronic funds transfer (EFT) mandate currently codified at 61 Pa. Code § 5.3 from "payments of \$10,000 or more" to payments of "\$1,000 or more."

(8) State the statutory authority for the regulation. Include specific statutory citation.

Statutory authority for the regulation is set forth in section 9 of The Fiscal Code (72 P.S. § 9).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The regulation is not mandated by federal law, court order or federal regulation.

Act 71 of July 18, 2013 (SB 591, PN 1328), authorizes the promulgation of the regulation by the State Treasurer and the Secretary of Revenue.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The amendment to the regulation expands the "Payments by Electronic Funds Transfer" (EFT) requirement that was enacted in 1992. Electronic payments offer several advantages over check payments. Payments are received faster and errors in handling and posting of tax payments are reduced. The Department of Revenue and the Treasury Department jointly promulgate this amendment to implement a statutory change made by the Pennsylvania Legislature under Act 71 of July 18, 2013.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

N/A

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The regulation will not put Pennsylvania at a competitive disadvantage with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation does not affect any other existing or proposed regulations of the Department or any other state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

A copy of the regulation was forwarded to the Pennsylvania Bar Association, the Philadelphia Bar Association, the Pennsylvania Institute of Certified Public Accountants, the Pennsylvania Society of Public Accountants, and the Pennsylvania Chamber of Business and Industry. The regulation is listed on the Department's Quarterly Regulatory Report posted on the Department's website and will be forwarded to interested parties upon request.

The Department continues to inform taxpayers of the lower EFT requirement in this regulation through many avenues, such as the Revenue Tax Update publication, notification in the electronic E-TIDES system, and on the Department's website ([www.revenue.state.pa.us](http://www.revenue.state.pa.us)).

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

All businesses currently remitting tax payments between \$1,000 and \$10,000 by check will be impacted.

Tax Type	Business Impact	
	Number of Businesses with \$1K-\$10K checks	Number of Small Businesses Impacted 2/
SUT	11,430	11,384
Withholding	12,587	12,537
Corporation Tax 1/	34,392	34,255
Total 3/	58,409	58,176

1/ Includes Mutual Thrift Institutions Tax, Corporate Net Income Tax, Capital Stock and Franchise Taxes, Bank and Trust Company Shares Tax, Title Insurance Company Shares Tax, Insurance Premiums Tax, Public Utility Realty Tax, and Gross Receipts Tax.

2/ This estimate is derived from tax payment data and data from the U.S. Small Business Administration.

3/ The total number of businesses impacted may be overstated to the extent businesses remit checks for more than one tax type.

Data is not available for the other tax types included in this regulation. However, the number of taxpayers for those tax types is not expected to be significant.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Due to the disclosure of confidential taxpayer information, the affected entities cannot be listed. The estimated number of businesses impacted is reported in (15) above.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

There is no effect on individuals remitting Article III (Personal Income Tax).

Businesses, labor communities, and public and private organizations will now need to EFT or send by certified check tax remittances that can currently be satisfied by standard checks. These entities may incur staff time or other expenses to comply with the regulation, although this is expected to be minimal.

The benefit is a \$39,000 savings in administrative cost for the Department of Revenue.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There is a \$39,000 savings in administrative cost to the Department of Revenue. While the cost and adverse effects on the affected businesses are unknown, it can be expected that after an initial setup expense, the cost is minimal.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

It can be expected that the cost to the regulated community, after an initial setup expense of staff time or other resources, is minimal.

It is estimated to be cost neutral for businesses when the cost of postage, envelopes, and paper check are balanced against any cost to EFT.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

It can be expected that the cost to local government, after an initial setup expense of staff time or other resources, is minimal.

It is estimated to be cost neutral for businesses when the cost of postage, envelopes, and paper check are balanced against any cost to EFT.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The savings to the state government are estimated to be \$39,000.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The amendment to the regulation, as required by Act 71 of July 18, 2013, does not change existing reporting, recordkeeping or other paperwork requirements.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government	\$39,000	\$39,000	\$39,000	\$39,000	\$39,000	\$39,000
Total Savings	\$39,000	\$39,000	\$39,000	\$39,000	\$39,000	\$39,000
<b>COSTS:</b>						
Regulated Community	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal
Local Government	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal
<b>REVENUE LOSSES:</b>						
Regulated Community	\$0					
Local Government	\$0					
State Government	\$0					
Total Revenue Losses	\$0					

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A	N/A	N/A	N/A	N/A

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

RESPONSES:

- (a) It is estimated a total of 58,176 small businesses will be subject to the regulation; however, this total may be overstated to the extent businesses remit checks for more than one tax type. Details of this estimate are reported in (15) above.
- (b) The effect on impacted small businesses is expected to be minimal.
- (c) The effect on impacted small businesses is expected to be minimal. Any added expense to convert to electronic payments should be offset by savings on checks, stamps, and envelopes.
- (d) There is no less intrusive or less costly alternative method to electronically remit tax payments. It is expected that the cost is minimal.



(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special groups are affected by the regulation.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There are no alternative regulatory provisions associated with the regulation.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

No regulatory flexibility analysis was conducted as regulation was promulgated due to a revision in Pennsylvania Law under Act 71 of July 18, 2013.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No scientific data, studies or references are used to justify this regulation.

(29) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: N/A
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: 1<sup>st</sup> Quarter, 2014
- D. The expected effective date of the final-form regulation: Upon final publication
- E. The date by which compliance with the final-form regulation will be required: Upon final publication
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

Department of Revenue - Notice of Final-Omitted Rulemaking

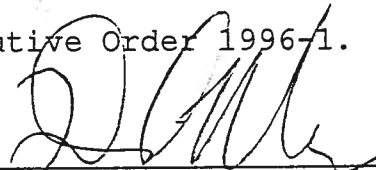
61 Pa. Code, §§ 5.3 and 5.7

General Provisions - Payments by Electronic Funds Transfer

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SECRETARY'S CERTIFICATION

I, Daniel Meuser, do hereby certify that I have reviewed this regulation and determined that the regulation is consistent with the principles outlined in Executive Order 1996-1.

  
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Daniel Meuser  
Secretary of Revenue

Department of Revenue - Notice of Final-Omitted Rulemaking

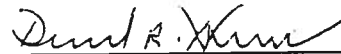
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FORM AND LEGALITY

I certify that I have reviewed this regulation for form and legality, that I have discussed any legal and policy issues with the attorneys responsible for this regulation, that I have made all appropriate revisions and that all information contained in the Preamble and Annex A is current and accurate.



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David R. Kraus  
Chief Counsel