

This rule is being proposed under an expedited rule-making process that will eliminate the need for the agency to hold public hearings, prepare a Small Business Economic Impact Statement, or provide responses to the criteria for a significant legislative rule. If you object to this use of the expedited rule-making process you must express your objections in writing by November 6, 2006.

AMENDATORY SECTION (Amending WSR 01-07-017, filed 3/13/01, effective 4/13/01)

WAC 458-20-22802 Electronic funds transfer. (1)

Introduction. Certain taxpayers are required to pay the taxes reported on the combined excise tax return with an electronic funds transfer (EFT). RCW 82.32.080. Taxpayers who are not required to pay by EFT may still use this method of payment if they notify the department of their desire to pay by EFT in advance of making their first EFT payment. (~~EFT merely changes the method of payment and no other tax return procedures or requirements are changed.~~) Taxpayers who are either required or voluntarily choose to pay their excise tax returns by EFT must furnish the department with the necessary information, as described in subsection (9) of this (~~rule~~) section.

(2) **Definitions.** For the purposes of this section, the following terms will apply:

(a) "Electronic funds transfer" or "EFT" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(b) "ACH" or "automated clearing house" means a central distribution and settlement system for the electronic clearing of debits and credits between financial institutions.

(c) "ACH debit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the department's bank to charge the taxpayer's account and deposit the funds to the department's account.

(d) "ACH credit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the taxpayer's bank to charge the taxpayer's account and deposit the funds to the department's account.

(e) "Department's bank" means the bank with which the department of revenue has a contract to assist in the receipt of taxes and includes any agents of the bank.

(f) "Collectible funds" actually means collected funds that have completed the electronic funds transfer process and are

available for immediate use by the state.

(g) "ACH CCD + addenda" and "ACH CCD + record" mean the information in a required ACH format that needs to be transmitted to properly identify the payment.

(h) "Service access key" means a unique code that allows an ACH debit transaction to occur.

(3) **Taxpayers required to pay by EFT.** Taxpayers who have taxes due of \$240,000 or more in a calendar year are required to pay by EFT. Total taxes due from the last complete calendar year will be used to determine whether a taxpayer is required to pay by EFT. When a calendar year total indicates a taxpayer is required to pay by EFT, the department will notify that taxpayer. The notification will be made at least three months prior to the date that the first EFT payment is required.

The requirement to pay by EFT will be waived if the taxpayer reasonably shows to the department that it will not meet or exceed the EFT threshold for taxes due in the calendar year.

(4) **Taxes covered.** The taxes covered by the EFT payment are taxes reported on the combined excise tax return. The included taxes are those administered by the department under chapter 82.32 RCW except city and town taxes on financial institutions (chapter 82.14A RCW), county tax on telephone access lines (chapter 82.14B RCW), cigarette tax (chapter 82.24 RCW), enhanced food fish tax (chapter 82.27 RCW), leasehold excise tax (chapter 82.29A RCW), and forest tax (chapter 84.33 RCW).

(5) **Refunds by EFT.** Overpayments of tax will be either credited to future tax liabilities or, at the taxpayer's request, will be refunded. If the taxpayer is required to pay the taxes on the combined excise tax return by EFT, the taxpayer is entitled to a refund of those taxes by EFT. However, if the taxpayer wishes to have the refund made by EFT, the taxpayer must provide the department with the information necessary to make an appropriate EFT or the refund will be issued as a warrant (check).

(6) **EFT methods.** Taxpayers required to pay by EFT must do so through the use of the ACH debit or ACH credit methods. All other taxpayers paying via EFT must do so through the use of ACH debit, ACH credit or other electronic payment methods approved by the department. In an emergency, the taxpayer should contact the department for alternative methods of payment. Contact information will be included in the notification materials sent to all EFT remitters.

(7) **Due date of EFT payment.** The EFT payment is due on or before the banking day following the tax return due date. An EFT payment made using the ACH credit method is timely when the state receives collectible U.S. funds on or before 5:00 p.m., Pacific Time, on the EFT payment due date. An EFT payment made

using the ACH debit method is timely if the payment is initiated on or before 11:59 p.m. Pacific Time on the EFT return due date, and the effective date for that payment is on or before the next banking day following the tax return due date. The ACH system, either ACH debit or ACH credit, requires that the necessary information be in the originating bank's possession on the banking day preceding the date for completion of the transaction. Each bank generally has its own transaction deadlines and it is the responsibility of the taxpayer to insure timely payment.

(a) The tax return due date is the next business day after the statutory due date if the statutory due date falls on a Saturday, Sunday, or legal holiday. Legal holidays are determined under state of Washington law and banking holidays are those recognized by the Federal Reserve System in the state of Washington.

(b) Example. The tax return due date is December 25th, a legal and banking holiday, which, for the example, falls on a Friday. The next business day is Monday, December 28th, and this is the new tax return due date. EFT must be completed by 5:00 p.m., Pacific Time, Tuesday, December 29th, which is the next banking day after the new due date. For an ACH debit user, the department's bank must have the appropriate information by 5:00 p.m., Pacific Time, on Monday, December 28th.

(8) **Coordinating return and payment.** The filed return and the EFT payment will be coordinated by the department. A return will be considered timely filed only if it is received by the department on or before the due date. If the return is sent by United States mail, it will be considered received on the date shown by the post office cancellation mark stamped on the envelope. RCW 82.32.080. In addition, the EFT payment must be received by the next banking day after the tax return due date. If both events occur, there is timely filing and payment and no penalties apply.

(9) **Form and contents of EFT.** The form and content of EFT will be as follows:

(a) If the taxpayer wishes to use the ACH debit system of EFT, the taxpayer will furnish the department with the information needed to complete the transaction. The department's bank will provide a service access key only to the taxpayer and all transactions must be initiated by the taxpayer.

(b) If the taxpayer wishes to use the ACH credit system of the EFT, the taxpayer is responsible to see that its bank has the information necessary for timely completion. The taxpayer must provide the information necessary for its bank to complete the ACH CCD + addenda for transmittal to the department's bank.

(c) If the taxpayer is not a taxpayer that is required to pay by EFT, and wishes to use any other electronic payment method approved by the department, the taxpayer must provide the

information necessary for the payment processing institution to timely process the payment.

(10) **Crediting and proof of payment.** The department will credit the taxpayer with the amount paid as of the date the payment is received by the department's bank. The proof of payment by the taxpayer will depend on the means of transmission.

(a) An ACH debit transaction may be proved by use of the verification number received from the department's bank that the transaction was initiated and bank statements or other evidence from the bank that the transaction was settled.

(b) An ACH credit transaction is initiated by the taxpayer through the taxpayer's bank. The taxpayer is responsible for completion of the transaction. The taxpayer generally will be given a verification number by the taxpayer's bank. This verification number with proof of the ACH CCD + record showing the department's bank and account number, plus confirmation that the transaction has been settled will constitute proof of payment.

(c) Taxpayers using any other electronic payment method are responsible for completion of the transaction. Proof of payment will include transaction initiation date and any other evidence from a financial institution that the transaction was settled.

(11) **Correcting errors.** Errors in the EFT process will result in either an underpayment or an overpayment of the tax. In either case, the taxpayer needs to contact the department to arrange for appropriate action. Overpayments may be used as a credit or the taxpayer may apply for a refund. The department will expedite a refund where it is caused by an error in transmission. Underpayments should be corrected by the taxpayer immediately to avoid any penalties.

(12) **Penalties.** There are no special provisions for penalties when payment is made by EFT. The general provisions for all taxpayers apply. To avoid the imposition of penalties, it is necessary for the payment to be timely. WAC 458-20-228 discusses the various penalties that may apply and the limited circumstances under which they may be waived.

(a) In an ACH debit transaction, the department's bank is the originating bank and is responsible for the accuracy of transmission. If the taxpayer has timely initiated the ACH debit, received a verification number, and shows adequate funds were available in the account, no penalties will apply with respect to those funds authorized.

(b) In an ACH credit transaction, the taxpayer's bank is the originating bank and the taxpayer is primarily responsible for its accuracy. The taxpayer must have timely initiated the transaction, provided the correct information for the ACH CCD + record, and shown that there were sufficient funds in the account, in order to prove timely compliance. If the taxpayer

can make this showing, then no penalties will apply as to those funds authorized if the transaction is not completed.

(c) With the use of other electronic payment methods, the taxpayer's financial institution is the originator of the payment transaction and the taxpayer is primarily responsible for the accuracy of this transaction. The taxpayer must have timely initiated the transaction and shown that there were sufficient funds in the account in order to prove timely compliance. If the taxpayer can make this showing, then no penalties will apply as to those funds authorized if the transaction is not completed.