

## PREAMBLE

The Department of Revenue and the Treasury Department, under the authority contained in section 9 of The Fiscal Code (72 P.S. § 9), by this notice of proposed rulemaking omitted, amends Chapter 5, Payments by Electronic Funds Transfer (EFT), to read as set forth in Annex A.

Act 71 of July 18, 2013 (P.L. \_\_\_\_, No. 71), mandates the Secretary of Revenue and the State Treasurer to jointly promulgate a regulation revising EFT payments for payments equal to or greater than \$1,000. Accordingly, the Department of Revenue and the Treasury Department, under section 204 of the act of July 31, 1968 (CDL) (P.L. 769, No. 240) (45 P.S. § 1204) and the regulation thereunder, 1 Pa. Code § 7.4, find that notice of proposed rulemaking is under the circumstances impracticable and, therefore, may be omitted.

Act 71 of 2013 mandated these changes as part of the fiscal year 2013-2014 budget package. Article VIII, Section 12 of the *Pennsylvania Constitution* requires a balanced operating budget for the Commonwealth. The only way to timely implement this change, a necessary component of the 2013-2014 budget, is through a final-omit rulemaking. These savings form part of the 2013-2014 budget passed by the legislature. Failure to timely adopt the regulation will create a deficit in the current year's budget as enacted.

Utilizing the shorter regulatory process will enable the Department of Revenue and the Treasury Department to quickly amend the regulation and provide the public with the revised EFT requirement enacted under Act 71 of 2013. Even though time constraints make the "formal" comment period impossible, the Department has reached out to the tax community to give them the opportunity to provide "informal" comments through the "public outreach" process. A copy of the draft regulation was sent 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 with a 14-day comment period, as well as delivered to the Appropriations and Finance Legislative Committee Chairs. No comments or objections were received on the EFT threshold revision. The regulation is listed on the Department's Quarterly Regulatory Report posted on the Department's website. The Department continues to inform taxpayers of the lower EFT requirement through many avenues, such as the Revenue Tax Update publication, notification in the electronic E-TIDES system and on the Department's website.

As a result of the above, the Department of Revenue for good cause finds that the procedures specified in sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201,

1202) are in these circumstances impractical, unnecessary, or impose an impossible burden on the Department.

#### Purpose of Regulation

To implement regulations to reflect a statutory change made by the Pennsylvania Legislature that revised payments required under § 5.3 (relating to payments required to be paid by EFT) from "\$10,000 or more" to "\$1,000 or more." Electronic payments offer several advantages over check payments. Payments are received faster and errors in handling and posting of tax payments are reduced.

#### Explanation of Regulatory Requirements

The Secretary of Revenue and the State Treasurer jointly adopted this regulation, Chapter 5, relating to payments by electronic funds transfer at 22 Pa.B. 1561 (April 4, 1992).

The Department of Revenue is amending § 5.3 (relating to payments required to be paid by EFT) to add new language at subsection (e) that will explain the lower EFT threshold requirement of \$1,000 beginning January 1, 2014. The remaining subsections are renumbered.

Section 5.7(i) (relating to miscellaneous provisions) is amended to reflect a new amount of "\$1,000 or more," as well update the reference to the renumbered section.

#### Fiscal Impact

The Department of Revenue has estimated that the regulations will have a fiscal impact of \$39,000 savings to the Commonwealth. It can be expected that the costs to the regulated community and small businesses, after an initial setup expense of staff time or other resources if the business is not already set up to make EFT payments, are minimal. Any added expense to convert to electronic payments should be offset by savings on checks, stamps, and envelopes.

#### Paperwork

The regulations will not generate substantial paperwork for the public or the Commonwealth.

#### Effectiveness/Sunset Date

The regulations will become effective upon publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

#### Contact Person

The contact person for an explanation of the regulations is Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, P.O. Box 281061, Harrisburg, Pennsylvania 17128-1061.

#### Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on *December 20, 2013*, the Department

of Revenue and the Treasury Department submitted a copy of the regulations with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101 - 732-506). In accordance with section 5.1(j.1) of the Regulatory Review Act (71 P.S. § 745.5a(j.1)), the regulations were deemed approved by the Committees on . IRRC met on , and approved the regulations under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

### Findings

The Department of Revenue and the Treasury Department find that the amendment is necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the CDL, the Department of Revenue and the Treasury Department also find that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) are unnecessary because it is in the public interest to expedite this amended regulation.

### Order

Acting under the authorizing statute, the Department of Revenue and the Treasury Department order that:

(a) The regulations of the Department of Revenue, 61 Pa. Code, are amended by amending Chapter 5 to read as set forth in Annex A.

(b) The Secretary of the Department of Revenue and the State Treasurer shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of the Department of Revenue and the State Treasurer shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the Pennsylvania Bulletin.

DANIEL MEUSER  
SECRETARY OF REVENUE

ROBERT M. McCORD  
STATE TREASURER

10/28/13