

Clearinghouse Rule 07-027

PROPOSED ORDER OF THE DEPARTMENT OF REVENUE AMENDING AND CREATING RULES

The Wisconsin Department of Revenue proposes an order to: **amend** Tax 1.12(1), (2), (3)(g), (4)(a)(intro.) and (b) and (7)(intro.) and **create** Tax 1.12(4)(a)14.; **relating to** electronic funds transfer.

Analysis by the Department of Revenue

Statute interpreted: s. 73.029, Stats.

Statutory authority: s. 73.029, Stats.

Explanation of agency authority: Section 73.029, Stats., provides that the department may require electronic funds transfer only by promulgating rules.

Related statute or rule: There are no other applicable statutes or rules.

Plain language analysis: This proposed rule order creates a provision specifying that withholding payments by an employer of the delinquent tax of an employee (also known as wage certification payments) are required to be made by electronic funds transfer (EFT). It also updates notes to provide current contact information for the department's EFT Unit.

Summary of, and comparison with, existing or proposed federal regulation: There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states: The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies: Wage certifications are authorized under s. 71.91(7), Stats. The number of wage certification payments received each year number in the tens of thousands. The department has determined that in order to administer this program in the most cost effective manner, it is necessary to require employers to make wage certification payments electronically.

Analysis and supporting documents used to determine effect on small business: The department provides methods to pay taxes using EFT that occur at no or minimal cost to the payer. In addition, an exception to the requirement to pay electronically for situations where an undue hardship is caused is provided in the rule. Based on this, the department has concluded that this proposed rule order does not have a significant effect on small business.

Anticipated costs incurred by private sector: This proposed rule order does not have a significant fiscal effect on the private sector.

Effect on small business: This proposed rule order does not have a significant effect on small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dkleven@dor.state.wi.us, if you have any questions regarding this proposed rule order.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the contact person shown below no later than one week after the public hearing on this proposed rule order is conducted. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

Dale Kleven
Department of Revenue
Mail Stop 6-40
2135 Rimrock Road
P.O. Box 8933
Madison, WI 53708-8933

SECTION 1. Tax 1.12(1), (2), (3)(g), and (4)(a)(intro.) are amended to read:

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

Tax 1.12(2). PURPOSE. The purpose of this section is to specify which taxes ~~and~~ fees, and other amounts 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.

Tax 1.12(3)(g). "Payer" means any person who is required to or elects to pay or deposit taxes ~~or~~ fees, or other amounts by electronic funds transfer.

Tax 1.12(4)(a)(intro.). Except as provided in sub. (11), the department requires a person who owes taxes ~~and~~ fees and other amounts as described in subds. 1. to ~~13.~~ 14. to pay or deposit the taxes ~~and~~ fees, and other amounts using the EFT payment method. The following taxes ~~and~~ fees, and other amounts are included in the EFT payment requirement:

SECTION 2. Tax 1.12(4)(a)14. is created to read:

Withholding by an employer of the delinquent tax of an employee under s. 71.91(7), Stats.

SECTION 3. Tax 1.12(4)(b) is amended to read:

Tax 1.12(4)(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, or other amounts specified in par. (a).

Note to Revisor: Replace the note at the end of Tax 1.12(6)(a) with the following:

Note: A request for an EFT registration packet may be made by calling the department's EFT unit at (608) 264-9918; by writing to EFT Unit, Wisconsin Department of Revenue, P.O. Box 8949, Madison WI 53708-8949; or by submitting an online form via the department's website at www.revenue.wi.gov.

SECTION 4. Tax 1.12(7)(intro.) is amended to read:

Tax 1.12(7)(intro.). EFT PAYMENT PROCEDURES. EFT payments or deposits shall be credited by the department directly to the payer's tax account or, for amounts described in sub. (4)(a)14., to the employee's delinquent tax account. The payer may use the ACH debit or ACH credit transfer option, or both, as follows:

Notes to Revisor: Replace the note at the end of Tax 1.12(7)(a) with the following:

Note: Written requests for department approval of another ACH debit transfer method should be addressed to EFT Unit, Wisconsin Department of Revenue, P.O. Box 8949, Madison WI 53708-8949.

Replace the note at the end of Tax 1.12(11)(a)1. with the following:

Note: Written waiver requests should be addressed to EFT Unit, Wisconsin Department of Revenue, P.O. Box 8949, Madison WI 53708-8949.

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.

Initial Regulatory Flexibility Analysis

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

DEPARTMENT OF REVENUE

Dated: _____

By: _____
Roger M. Ervin
Secretary of Revenue

E:Rules/112 Proposed Order (v2)