RULES
OF
DEPARTMENT OF REVENUE
FISCAL OPERATIONS DIVISION

CHAPTER 560-3-2
SUBSTANTIVE REGULATIONS

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560-3-2-.26 Electronic Funds Transfer, Credit Card Payments, and Electronic Filing.

560-3-2-.26 Electronic Funds Transfer, Credit Card Payments, and Electronic Filing.

(1) **Purpose.** The purpose of this rule is to provide guidance concerning the administration of O.C.G.A. § 48-2-32(f), which authorizes the Georgia Department of Revenue to require certain taxpayers to file returns electronically and to remit taxes to the Department by the electronic transfer of funds. This rule also provides guidance in regard to submitting payment by either credit or debit card. Additionally, it provides guidance regarding O.C.G.A. §§ 48-2-44.1 and 48-7-54.

(2) **Definitions.**

(a) "ACH" means automated clearing house, which is a central clearing facility operated by the Federal Reserve Bank or an organization established by agreement with the National Automated Clearing House Association (NACHA) that operates as a clearing house for transmitting or receiving entries between banks or bank accounts and authorizes electronic transfers of funds between banks or bank accounts.

(b) "ACH debit" means a transaction by which the Department or its designated agent originates an ACH transaction debiting a

taxpayer's bank account and crediting the Department's bank account for the amount of the payment due.

(c) "ACH credit" means a transaction by which a taxpayer originates an ACH transaction debiting the taxpayer's bank account and crediting the Department's bank account for the amount of the payment due.

(d) "Business day" means every day except Saturday, Sunday, or any holiday observed by the Federal Reserve Bank or the State of Georgia.

(e) "Credit card" means any credit card as defined in section 103(k) of the Truth in Lending Act (15 U.S.C. 1602(k)), including any credit card, charge card, or other credit device issued for the purpose of obtaining money, property, labor, or services on credit.

(f) "Debit card" means any accepted card or other means of access as defined in section 903(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(1)), including any debit card or similar device or means of access to an account issued for the purpose of initiating electronic fund transfers to obtain money, property, labor, or services.

(g) "Department" means the Georgia Department of Revenue.

(h) "Department's designated agent" is any such agent the Department deems to be qualified and equipped to undertake and safeguard the electronic filing of returns, reports, or other documents filed by taxpayers or the receipt of payments.

(i) "Electronic" means, but is not limited to, electronic data interchange; electronic funds transfer; or use of the Internet, telephone, or other technology specified by the Department and the filing of a return by computer technology.

(j) "Electronic Funds Transfer (EFT)" means a method of making financial payments, from one party to another, through a

series of instructions and messages communicated electronically, via computer, among financial institutions. It also means any transfer of funds (other than a transaction originated by check, draft or similar paper instrument) that is initiated through an electronic terminal, telephonic instrument, and computer to authorize a financial institution to debit or credit an account.

(k) "Immediately available funds" means tax payments transmitted to the Department by electronic funds transfer using either the ACH debit or credit method such that the State of Georgia receives all collectible funds on the date such tax payment is statutorily required to be paid. A payment of tax by credit card or debit card shall be deemed to be immediately available to the State when the issuer of the credit card or debit card properly authorizes the transaction, provided that payment is actually received by the Department in the ordinary course of business and is not returned.

(l) "Nonindividual" means any firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public, and any other legal entity.

(m) "Tax" means tax, interest, penalty, and fees.

(n) "Taxpayer" means any person as defined in O.C.G.A. § 48-1-2, and their agents, who is required to pay a tax or file any return, report, or other document.

(o) "Wire transfer" means a transaction via the taxpayer's bank by which a taxpayer originates an entry crediting the Department's bank account and debiting the taxpayer's bank account on the same day that the transaction is initiated.

(p) "Fedwire" means Federal Reserve Wire Transfer, a transaction utilizing the federal electronic payment system to transfer funds through Federal Reserve Banks.

(3) **Requirements for Payment by Electronic Funds Transfer and by Credit or Debit Card.**

(a) General requirements.

1. Any taxpayer, person, or business owing more than $10,000.00 in connection with any return, report, or other document required to be filed with the Department on or after July 1, 1992, pertaining to corporate estimated income tax or individual estimated tax, shall be required to make application and remit all future payments of any such corporate estimated income tax or individual estimated income tax liability to the Department by electronic funds transfer using the ACH debit or credit method regardless of whether any payments for those tax types subsequently fall below $10,000.00.

2. Effective for tax periods beginning on or after January 1, 2007 and prior to January 1, 2010, any taxpayer, person, or business owing more than $5,000.00 in connection with any return, report, or other document pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax required to be filed with the Department, shall pay any such sales tax, use tax, withholding tax, or motor fuel distributor tax liability and all future payments to the state by electronic funds transfer using the ACH debit or credit method even if some payments for those tax types subsequently fall below $5,000.00.

3. Effective for tax periods beginning on or after January 1, 2010 and prior to January 1, 2011, any taxpayer, person, or business owing more than $1,000.00 in connection with any return, report, or other document pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax required to be filed with the Department, shall pay any such sales tax, use tax, withholding tax, or motor fuel distributor tax liability and all future payments to the state by electronic funds transfer using the ACH debit or credit method even if some payments for those tax types subsequently fall below $1,000.00.

4. Effective for tax periods beginning on or after January 1, 2011, any taxpayer, person, or business owing more than $500.00 in connection with any return, report, or other document pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax required to be filed with the Department, shall pay any such sales tax, use tax, withholding tax, or motor fuel distributor tax liability and all future payments to the state by electronic funds transfer using the ACH debit or credit method even if some payments for those tax types subsequently fall below $500.00.

5. Additionally, every employer whose withholding tax exceeds $50,000.00 in the aggregate for the twelve-month period that ended the preceding June 30, must submit their payments as a semi-weekly payer by electronic funds transfer using the ACH debit or credit method as provided in O.C.G.A. § 48-2-32(f)(3) and rule 560-7-8-.33.

6. Additionally, every employer whose withholding tax totals more than $100,000.00 for the payday must submit such withholding tax by electronic funds transfer using the ACH debit or credit method by the next banking day after the payday as provided in O.C.G.A. § 48-2-32(f)(3) and rule 560-7-8-.33.

7. The ACH debit transaction is the primary method that taxpayers must use to remit funds by electronic funds transfer. The Commissioner shall authorize use of the ACH credit as a payment method on a case-by-case basis as further explained in subparagraph (3)(c) of this rule.

(b) ACH debit method procedure.

1. Unless a taxpayer is approved to use the ACH credit method under subparagraph (3)(c) of this rule, all taxpayers required to make tax payments to the Department via electronic funds transfer shall use the ACH debit method. The taxpayer shall utilize the ACH debit method by accessing the Department's electronic filing system or systems on the Department's website to establish an electronic account for the transfers and tax payments of such funds.

2. As of August 1, 2008, a taxpayer will no longer be able to apply to the Department's designated agent to establish an electronic account utilizing the ACH debit method. The procedure as set forth in subparagraph (3)(b)1. of this rule shall be followed. Taxpayers who currently use the Department's designated agent may continue to do so until such time as the Department notifies taxpayers that the designated agent is no longer available and the procedures set forth in subparagraph (3)(b)1. need to be followed.

3. A taxpayer using the ACH debit method shall be responsible for providing the Department or the Department's designated agent with all essential information relating to the type of tax being paid, and the related payment request no later than 3:00 p.m. Eastern Standard Time on the business day prior to the statutory due date. Such payment request is required to be made one business day prior to the statutory due date in order that the Department, by utilizing the NACHA process, may authorize and transmit all collected electronic funds between the Department's bank and taxpayers' bank accounts on the statutory due date as is required by O.C.G.A § 48-2-32. For example:

(i) The statutory due date is a Wednesday. The ACH debit payment request must be made no later than 3:00 p.m. Eastern Standard Time on the Tuesday prior to such due date.

(ii) The statutory due date falls on a Saturday or Sunday. This moves such due date to the next business day, which would be Monday. The ACH debit payment request must be made no later than 3:00 p.m. Eastern Standard Time on the Friday prior to such due date.

(iii) The statutory due date falls on a Monday which has been designated as a Public Holiday. This moves such due date to the next business day, which is Tuesday. The ACH debit payment request must be made no later than 3:00 p.m. Eastern Standard Time on the Friday prior to such due date.

4. After a taxpayer transmits the ACH debit payment information to the Department or the Department's designated agent, the Department or the agent shall accept the payment information and provide the taxpayer with a confirmation number. The confirmation number shall verify the completion of the ACH debit instructions only. It does not warrant that the information submitted by the taxpayer is correct nor does it represent proof of payment.

(c) ACH credit method procedure.

1. A taxpayer wishing to use the ACH credit method shall submit a written request to the Department providing a valid business reason for the use of this method. If approved, the taxpayer shall complete Form EFT-002. The completed form must be submitted to the Department at least thirty days prior to making tax payments via the ACH credit method for an electronic funds transfer.

2. An approved taxpayer transmitting tax payments using the ACH credit method shall provide all pertinent data needed by the taxpayer's bank to complete the transaction. Any pertinent data required by the Department or its designated agent for transmittal of tax payments shall also be provided as needed.

3. A taxpayer transmitting tax payments using the ACH credit method shall verify that its bank account was debited for the correct amount of tax and that the funds were transmitted to the Department or its designated agent on or before the required statutory due date. The taxpayer shall retain the ACH trace number received and shall provide this number to the Department should the payment be either late or lost.

4. A taxpayer transmitting tax payments using the ACH credit method shall be the sole party responsible for completing the transfer in a timely manner so that the Department or its designated agent receives the tax payment on the statutory due date.

5. The Department may revoke a taxpayer's ACH credit method payment privilege if the taxpayer's ACH credit transmittals

consistently contain erroneous data, if the taxpayer fails to make timely payments, or fails to provide all payment information as required by the Department.

(d) Payment by credit card and/or debit card.

1. Taxes may be paid by credit card or debit card as authorized by this section. Only credit card or debit card types approved by the Department may be used for this purpose, only the types of tax liabilities specified by the Department may be paid by credit card or debit card, and all such payments must be made in the manner and in accordance with the forms, instructions, and procedures prescribed by the Department.

2. Tax payments submitted or paid by credit card or debit card must be made on or before the required statutory due date. A payment of tax by credit card or debit card shall be deemed to be immediately available to the State when the issuer of the credit card or debit card properly authorizes the transaction, provided that the payment is actually received by the Department in the ordinary course of business and is not returned.

3. A taxpayer who tenders payment of taxes by credit card or debit card is not relieved of liability for such taxes until the payment is actually received by the Department and is not required to be returned. This continuing liability of the taxpayer is, in addition to, and not in lieu of, any liability of the issuer of the credit card or debit card or financial institution.

(4) **Error Resolution Procedures for Payment by Credit or Debit Card.**

(a) General. Payments of taxes by credit card or debit card shall be subject to the applicable error resolution procedures of section 161 of the Truth in Lending Act (15 U.S.C. 1666), or any similar provisions of state or local law, for the purpose of resolving errors relating to the credit card or debit card account, but not for the

purpose of resolving any errors, disputes, or adjustments relating to the underlying tax liability.

(b) The error resolution procedures of this paragraph apply to the following types of errors:

1. An incorrect amount posted to the taxpayer's account as a result of a computational error, numerical transposition, or similar mistake;

2. An amount posted to the wrong taxpayer's account;

3. A transaction posted to the taxpayer's account without the taxpayer's authorization; and

4. Other similar types of errors that would be subject to resolution under section 161 of the Truth in Lending Act (15 U.S.C. 1666), or similar provisions of state or local law.

(c) If a taxpayer is entitled to a return of funds pursuant to the error resolution procedures of this section, the Commissioner may, in the Commissioner's sole discretion, effect such return by arranging for a credit to the taxpayer's account with the issuer of the credit card or debit card or any other financial institution or person that participated in the transaction in which the error occurred.

(d) The error resolution procedures of this section do not apply to any error, question, or dispute concerning the amount of tax owed by any person for any year.

(5) **Emergency Exception.**

(a) If a taxpayer cannot transmit a timely tax payment by electronic funds transfer using either the ACH debit or credit method due to a situation beyond the taxpayer's control, the taxpayer shall remit their tax payments in a timely manner utilizing one of the following methods:

1. Wire transfer through the Federal Reserve System (also known as Fedwire). The Department will not approve more than two Fedwire requests per tax year for each reporting account;

2. Wire transfer directly into the Department's bank account; or

3. Actual delivery of a certified check or cashier's check on or before the tax liability's statutory due date to the Commissioner of the Georgia Department of Revenue, Century Center Building, 15th Floor, 1800 Century Blvd. NE, Atlanta, GA 30345.

(b) The taxpayer must request and receive the Department's approval in writing, whether in the form of a paper document or by electronic mail, in order to utilize any of the exceptions.

(6) **Voluntary participation in remitting payments electronically.**

(a) Taxpayers not required to remit payments by electronic funds transfer may voluntarily use the ACH debit method to remit tax payments as described in subparagraph (3)(b) of this rule.

(b) Voluntary taxpayers shall complete the same forms and comply with the same requirements and provisions, such as statutory due dates, electronic filing of returns, and penalty provisions, as taxpayers required to make payment by electronic funds transfer using the ACH debit method except that the provisions of subparagraph 8(c) and 8(g) of this rule shall not apply.

(c) Voluntary taxpayers who remit payment by electronic funds transfer through the Department's designated agent may, upon written request to and upon approval by the Department, resume transmitting tax payments using their former method of payment.

(d) Voluntary taxpayers who remit payment by electronic funds transfer through the Department's electronic filing or payment system or systems via the Department's website may resume

transmitting tax payments using their former method of payment at any time, without approval. However, they will be subject to the provisions of subparagraphs (7)(a) and (7)(b) of this rule for the tax periods for which the payments were remitted by electronic funds transfer.

(7) **Electronic Filing.**

(a) Taxpayers that remit payments by electronic funds transfer, whether on a mandatory or voluntary basis, must file all associated returns electronically.

(b) Taxpayers that remit payments by electronic funds transfer, whether on a mandatory or voluntary basis, must file all associated information return forms required to be filed with the Department such as, but not limited to, Form 1099, W-2s, G-2-A, Original G-1003, and Amended G-1003.

(c) Pursuant to O.C.G.A. § 48-7-54, the Commissioner requires any nonindividual taxpayer to electronically file any return, report, or other document required to be filed by Chapter 7 of Title 48 when the federal counterpart of such return, report, or other document is required to be filed electronically pursuant to the Internal Revenue Code of 1986 or Internal Revenue Service regulations.

(d) Any amendment of an electronic return must be submitted electronically.

(e) An electronic return, in total, must contain all the same information that is found on a comparable return that would have been filed entirely on paper and must be filed using the procedures and format established by the Department for the particular return.

(f) Except for sales and use tax, and withholding taxes filed online via the Department's website, the electronic filing of any other type of return must be done utilizing a software vendor that is approved by the Department.

(g) Should any Department of Revenue application, system, or other Department software prohibit the filing of any return, report, or other document as required pursuant to subparagraph (7)(c), such return, report, or other document may be filed using a paper return until the Department has resolved the problem at issue, or the Department's systems are capable of receiving such electronic returns. The Department will post, on its website, an updated notification of any new development or correction regarding the problem at issue, or the availability of the new system that can accept other electronically filed tax types.

(h) Upon receipt of an electronically filed return, no further paper returns will be mailed to the taxpayer in the future unless the taxpayer requests resumption thereof.

(8) **Miscellaneous.**

(a) If a tax payment statutory due date falls on a date other than a business day, the tax payment must be made so that the funds are immediately available on the first business day thereafter.

(b) The requirement to make tax payments by electronic funds transfer using either the ACH debit or credit method does not alter the requirement to file returns, reports, and documents associated with such payments in the manner prescribed by statute and by rules promulgated by the Department.

(c) Failure to file electronically.

1. Effective for tax periods beginning on or after January 1, 2010, a taxpayer who files paper returns pertaining to sales tax, use tax, withholding tax, or motor fuel distributor tax, even though prohibited from doing so by this rule, shall be subject to the provisions of O.C.G.A. § 48-2-44.1. Such deemed failure, as provided in O.C.G.A. § 48-2-44.1, shall also result in the failure to have timely made elections allowed pursuant to Title 48.

2. A taxpayer who files any paper returns, reports, and documents, except those specified by subparagraph (8)(c)1. of this rule, even though prohibited from doing so by this rule, shall be deemed to have failed to make the required filing and shall be subject to all penalties and interest imposed by Title 48 unless such returns, reports, and documents are not required to be filed pursuant to subparagraph (7)(g). Such deemed failure shall also result in the failure to have timely made elections allowed pursuant to Title 48.

3. Taxpayers who voluntary participate in remitting electronic payments according to paragraph (6) of this rule will not be subject to the provisions of subparagraph (8)(c) of this rule.

(d) A separate payment using ACH debit or credit, credit or debit card, wire transfer, or certified check or cashier's check, as allowed pursuant to this rule, shall be made for each tax type, state tax identification number, and tax period for which the tax is due.

(e) If a taxpayer, utilizing the Department's designated agent, has a subsequent change in the banking information necessary to generate either an ACH debit or credit against the taxpayer's account, the taxpayer shall provide to the Department's designated agent the new banking information and a voided check from the account from which the tax payment will be wired, at least thirty days before such ACH transaction is initiated.

(f) If a taxpayer, utilizing the Department's electronic system or systems, requires a subsequent change in the banking information necessary to generate an ACH debit against the taxpayer's account, the taxpayer must update their electronic account to reflect any such changes.

(g) If a taxpayer is required to remit payments by electronic funds transfer pursuant to this rule and pays its tax liabilities to the Department in other than immediately available funds, a penalty of 10 percent of the amount due shall be added to such payment, even if timely made, unless paragraph (5) of this rule is applicable. However, taxpayers who voluntary participate in remitting

electronic payments according to paragraph (6) of this rule will not be subject to the provisions of this subparagraph.

(h) If the electronic payment is not timely made by the statutory due date, the Taxpayer shall be subject to all penalties and interest imposed by Title 48. Such deemed failure to make the required payment shall also result in the forfeiture of the compensation of dealers for reporting and paying tax provided in Code section § 48-8-50, since such Code section provides such compensation only if such payment is timely made.

(9) **Effective Date.** Except as otherwise provided in this rule, the provisions set forth will apply to taxable years or taxable periods beginning on or after January 1, 2008. Taxable years or taxable periods beginning before January 1, 2008, will be governed by the rules and regulations pursuant to Chapter 560-3-2 as they existed before January 1, 2008, in the same manner as if the amendments thereto set forth in this rule had not been promulgated.

Authority: O.C.G.A. §§ 48-2-12, 48-2-32, 48-2-44.1 and 48-7-54.