

## REGULATORY IMPACT STATEMENT

### DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax law, sections 9(b); 9(e); 9(i); 10(i); 171, subd. First; 289(f); 315(b); 658(a); 697(a); 1142(1); 1142((8); and 1250. Sections 9(b), 9(e), and 9(i) require the Commissioner of Taxation and Finance to promulgate regulations necessary for the implementation and administration of the electronic funds transfer program for withholding taxes. Section (10)(i) authorizes the Commissioner to promulgate regulations to implement the provisions regarding the electronic funds transfer program for sales and compensating use taxes, prepaid sales and compensating use tax on motor fuel and diesel motor fuel, and motor fuel and petroleum business taxes. Section 171, subdivision First, of Article 8, authorizes the Commissioner to promulgate regulations. Section 289(f) of Article 12-A authorizes the Commissioner to make provisions pursuant to regulations for the joint administration of taxes on the sale of automotive fuel imposed by Article 12-A and the taxes imposed and authorized by Article 28 and Article 29. Section 315(b) of Article 13-A authorizes the Commissioner to make provisions for the joint administration of taxes imposed by Articles 12-A and 28 and authorized by Article 29 upon automotive fuel and the taxes imposed by Article 13-A. Section 658(a) provides that the Commissioner may prescribe regulations as to the content and form of returns and statements for personal income tax. Section 697(a) provides the authority for the Commissioner to make such rules and regulations as are necessary to enforce the personal income tax. Sections 1142(1) and (8) of Article 28 and section 1250 of Article 29 provide for the adoption of rules and regulations that are appropriate for the joint administration of the state and local sales and compensating use taxes imposed by and pursuant to the authority of such Articles.

2. Legislative objectives: This regulation contains amendments which demonstrate the Commissioner's ability to take regulatory action when it is authorized and warranted. Regulatory action is necessary to update

the regulations to reflect the Department's enhanced electronic funds transfer system. The electronic funds transfer system is used by taxpayers to remit payments of taxes due and is the required mode of payment for large payors.

3. Needs and benefits: The purpose of these amendments is to update the Department's Procedural Regulations concerning the electronic funds transfer program. Parts 2396 and Part 2397 of the Procedural Regulations were both originally adopted to implement and provide guidance on the electronic funds transfer program for withholding tax, sales and compensating use taxes, and motor fuel and petroleum business taxes. At the time these regulations were adopted, the processing of enrollments and distribution of program-related material had to be done using the paper mail system. Also, much of the bank-related information was only transmittable through the telephone system which was set up to process the taxpayers' payments. Now, program informational materials are available on the Department's website and, sometime in 2005, the Department will be implementing an enhanced system with greater utilization of the program's website to handle the transmission of the taxpayer's bank transactions. There will be less need for use of the paper mail system and participants in the program will benefit from quicker processing times. Also, participants will be allowed to change their payment option at any time instead of only at prescribed times. Voluntary participants in the program will be able to opt out of the program at a later date than is currently allowed. This proposal will update the regulations to reflect the new system, so the regulations and policy are in accord. The amendments will delete some unnecessary provisions and provisions which are better suited for inclusion in the program material which is sent to participants. The amendments will eliminate the confusion that would be caused by having outdated material remain in the regulations.

We requested comments about the amendments from various small business and local government organizations, the National Payroll Reporting Consortium, and various corporations that participate in the electronic funds transfer program (see Statement in Lieu of a Regulatory Flexibility Analysis for Small

Businesses and Local Governments). We received several replies and all were complimentary about the amendments.

4. Costs: There are no fiscal or nonfiscal costs related to the promulgation of the regulation to the state, this agency, local governments, or regulated parties beyond those imposed by the statute. This analysis is based on a review of the statutory provisions and on discussions among personnel from the Department's Technical Services Division, Office of Counsel, Office of Tax Policy Analysis, Bureau of Fiscal Management, and Planning and Management Analysis Bureau.

5. Local government mandates: There are no mandates imposed on local governments by these amendments.

6. Paperwork: These amendments do not impose any new paperwork or reporting requirements and actually, the enhanced system reflected in the amendments will lessen the amount of paper mailings required of both the participants and the Department because of the greater use of the electronic funds transfer program's website.

7. Duplication: These amendments do not duplicate any other requirements.

8. Alternatives: The only alternative considered was to not amend the regulations and leave in place the regulations requiring the use of paper mailing instead of the use of Internet technologies. However, we have decided that this proposal is preferable in order to attain the benefits listed in section 3 above.

9. Federal standards: The rule does not exceed any minimum Federal standards for the same or similar subject area.

10. Compliance schedule: There is no time necessary for the program participants to achieve compliance with the rule because the rule continues to reflect time limits imposed by the statute. The rule also reflects the relaxation of administrative time limits set by regulation, including the times set for changing payment options and for voluntary participants to opt out of the program.