

18:2-3.1 Purpose

These rules enable the State to receive the actual tax monies from certain taxpayers, by the payment due date, because the taxpayers are required to pay their taxes by electronic funds transfer, instead of being allowed to pay by check or other similar instrument.

18:2-3.2 Scope

This subchapter establishes the bases for determining which taxpayers must pay taxes by electronic funds transfer (EFT), as well as the basic requirements for paying by EFT.

18:2-3.3 Definitions

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

“ACH” (automated clearing house) means a Federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association (NACHA), which operates as a clearing house for transmitting or receiving entries between banks and bank accounts, and which authorizes an electronic transfer of funds between the banks or bank accounts.

“ACH credit” means a transaction in which the taxpayer, through its own bank, originates an entry crediting the State of New Jersey’s bank account and debiting its own bank account for the amount of the payment due.

“ACH debit” means a transaction in which the State of New Jersey, through its designated depository bank, originates an ACH transaction debiting the taxpayer’s bank account and crediting the State’s bank account for the amount of the payment due.

“Director” means the Director of the Division of Taxation in the Department of Treasury.

“EFT” (electronic funds transfer) 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 or computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

“Prior year liability” means the total liability for any tax imposed on, collected by or withheld by the taxpayer in the calendar year or the fiscal or calendar privilege period, as determined under the specific law regarding that tax, ending before the calendar year or fiscal or calendar privilege period for which an electronic funds transfer payment is determined to be required.

“State tax” means any tax which is payable to or collectible by the Director.

“Taxpayer” means any person or entity owing or liable to pay any tax, or any person or entity deemed to be so owing or liable.

18:2-3.4 Payments required to be paid by electronic funds transfer

(a) Between March 1, 1993, and February 28, 1994, a taxpayer that had a prior year liability for any type of tax, with certain exceptions in (f) below, in the amount of \$200,000 or more shall remit all its State tax payments of all types, with certain exceptions in (f) below, by using EFT. The taxpayer may choose the ACH debit method or the ACH credit method of EFT.

(b) Between March 1, 1994, and February 28, 1995, a taxpayer that had a prior year liability for any type of tax, with certain exceptions in (f) below, in the amount of \$100,000 or more shall remit all its State tax payments of all types, with certain exceptions in (f) below, by using EFT. The taxpayer may choose the ACH debit method or the ACH credit method of EFT.

(c) Between March 1, 1995, and February 29, 1996, a taxpayer that had a prior year liability for any type of tax, with certain exceptions in (f) below, in the amount of \$50,000 or more shall remit all its State tax payments of all types, with certain exceptions in (f) below, by using EFT. The taxpayer may choose the ACH debit method or the ACH credit method of EFT.

(d) Beginning March 1, 1996, a taxpayer that had a prior year liability for any type of tax, with certain exceptions in (f) below, in the amount of \$20,000 or more shall remit all its State tax payments of all types, with certain exceptions in (f) below, by using EFT. The taxpayer may choose the ACH debit method or the ACH credit method of EFT.

(e) The EFT requirements of (a) through (d) above apply to any estimated tax payments due from a taxpayer.

(f) The EFT requirements of (a) through (d) above do not apply to payments of the following types of taxes:

1. Transfer inheritance tax imposed pursuant to N.J.S.A. 54:33-1;
2. Estate tax imposed pursuant to N.J.S.A. 54:38-1;
3. Gross income tax payments of estimated or final tax liability imposed pursuant to N.J.S.A. 54A:8-5 and N.J.S.A. 54A:8-1, but not including withholding tax imposed pursuant to N.J.S.A. 54A:7-1 and 54A:7-1.1.

18:2-3.5 Specific requirements

(a) A taxpayer that is required to pay by EFT shall initiate the transfer and take whatever other steps are necessary so that any tax payment due is deposited in the State of New Jersey’s account in the designated depository, on or before the date that the tax is due according to the pertinent law.

(b) A taxpayer shall make separate EFT transactions for each payment of each type of tax.

(c) A taxpayer may switch its choice of method to the other method of EFT for all its payments if the taxpayer gives the Director notice in writing 60 days in advance of using the other method.

(d) Whichever method (ACH credit or ACH debit) a taxpayer chooses for complying with its EFT requirements, the taxpayer shall use the same method for payment of all the types of taxes it is required to pay by EFT.

(e) If a taxpayer chooses the ACH debit payment option and the banking information necessary to generate ACH debits changes, the taxpayer shall give the Director notice in writing at least 60 days prior to the date the change will take effect.

18:2-3.6 Determination of prior year liability

(a) The Director will annually, on such date as is practicable, determine taxpayers' prior year liability for one or more types of taxes. If an actual prior year liability cannot be determined, the Director may make a determination according to an estimated prior year liability.

(b) For tax payments due between March 1, 1993 and February 28, 1994, the Director shall base "prior year liability" on:

1. The tax liability for calendar year 1992, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on one or more calendar months, one or more calendar quarters or a calendar year; or

2. The tax liability for any fiscal year or privilege period ending between January 1, 1992 and December 31, 1992, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on a fiscal year or privilege period.

(c) For tax payments due between March 1, 1994 and February 28, 1995, the Director shall base "prior year liability" on:

1. The tax liability for calendar year 1993, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on one or more calendar months, one or more calendar quarters or a calendar year; or

2. The tax liability for any fiscal year or privilege period ending between January 1, 1993 and December 31, 1993, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on a fiscal year or privilege period.

(d) For tax payments due between March 1, 1995 and February 29, 1996, the Director shall base "prior year liability" on:

1. The tax liability for calendar year 1994, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on one or more calendar months, one or more calendar quarters or a calendar year; or

2. The tax liability for any fiscal year or privilege period ending between January 1, 1994 and December 31, 1994, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on a fiscal year or privilege period.

(e) For tax payments due in March of 1996 and thereafter, the Director shall base "prior year liability" on:

1. The tax liability for the calendar year preceding the calendar year in which the Director makes the prior year liability determination, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on one or more calendar months, one or more calendar quarters or a calendar year; or

2. The tax liability for any fiscal year or privilege period ending in the calendar year preceding the calendar year in which the Director makes the prior year liability determination, if the Director is determining a prior year liability with regard to a type of tax for which liability is based on a fiscal year or privilege period.

18:2-3.7 Notice to taxpayers

(a) The Director will notify taxpayers of their EFT payment requirements at least 30 days prior to the date on which the Director first requires compliance with N.J.A.C. 18:2-3.4(a) through (e).

(b) The failure of the Director to notify a taxpayer as required by (a) above shall not relieve a taxpayer from compliance with its EFT payment requirements. However, if the Division's records indicate that the Director failed to notify the taxpayer as required by (a) above, the Director may take the lack of notice into consideration with respect to any request for a waiver of penalty or interest.

(c) The Director will annually, on such date as is practicable, notify those taxpayers that do not meet the current "prior year liability" threshold for being required to pay by EFT.

18:2-3.8 Penalties and interest for late EFT payments

(a) If an EFT payment is deposited later than the date required by N.J.A.C. 18:2-3.5(a), the Director shall, for the period between the required and the actual deposit date, assess late payment penalties and interest as provided under the State Tax Uniform Procedure Law or under the pertinent State tax law.