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The Association of Tax Agencies of the 50 States, District of Columbia and New York City

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April 29, 2009

Ms. Janet O. Estep  
President & Chief Operating Officer  
National Automated Clearing House Association  
The Electronic Payments Association  
13450 Sunrise Valley Drive, Suite 100  
Herndon, VA 20171

Re: Application of the International ACH Transaction (IAT) Rules

Dear Ms. Estep:

The Federation of Tax Administrators (FTA) is a nonprofit corporation that serves the principal tax collection agencies of the 50 states, the District of Columbia and New York City. It was organized in 1937 to improve the quality of state tax administration by providing services to state tax authorities and administrators. These include research and information exchange, training, and intergovernmental and interstate coordination. The Federation also represents the interests of state tax administrators before federal policymakers where appropriate.

FTA has recently learned that the National Automated Clearing House Association (NACHA) has created a new International ACH Transaction (IAT), which will go into effect in September, 2009. This is apparently in response to rules issued by the U.S. Treasury's Office of Foreign Assets Control (OFAC).

The IAT must be used for domestic payments that are funded by a bank outside of the U.S. Our understanding is that if funding for a tax payment comes from an account outside U.S. territorial borders, the IAT format is required for every ACH transaction related to the tax payment account, including payments to government agencies.

The initial reaction from the tax authorities that we have spoken to was that the IAT requirements would not apply to them and that only their banks would be affected. However, upon further examination, every state would have to make systems changes; for example, virtually every state revenue agency maintains a website to enable taxpayers to initiate electronic tax payments. These systems would need to add new questions and data elements to taxpayer interfaces for ACH Debit to permit taxpayers to report the new elements required by the IAT, namely, the foreign correspondent bank's

identification number, name, country code, and country name.

Second, some tax authorities consider the EFT payment and TXP addenda to be a tax return, and some agencies cannot accept more than one ACH payment or return from an employer for a given tax period. Under the new IAT rules, some taxpayers would need to make separate tax payments (IAT and domestic) for the same tax period.

Most multinational corporations, and organizations with some degree of foreign ownership or joint ventures abroad could be affected. Even if relatively few taxpayers are required to use the new EFT formats, every tax authority would need to make changes to accommodate them. State tax agencies utilize a number of payment methods, including third-party service ACH transactions and online debit authorization. To modify all of the payment processes including third party contracts as well as multiple computer systems for the few transactions that would be identified as international, would be a tremendous financial burden at a time when state budgets are being slashed nationwide.

Application of these rules to state tax payments would not further OFAC's intended goals. The IAT is intended to enable payors to provide sufficient identifying information for financial institutions to comply with OFAC payment screening requirements designed to prevent payments to terrorists and other designated individuals or organizations. Payments to government entities would appear to pose no risk. We believe that a case can be made for an exception to the IAT rules to effectively exempt payments to government revenue entities.

As well, we are aware of NACHA's correspondence with the American Payroll Association and the National Payroll Reporting Consortium with respect to payroll withholding payments remitted to federal, state and local taxing and other collecting agencies and its conclusion that these payments are not required to be IATs, and believe that the arguments advanced by those two organizations apply in equal force to other all state tax payments.

We are requesting that the waiver of the requirement to utilize the IAT format issued in that case be extended to cover all tax and revenue payments to our state and other government members.

Thank you for considering this request. We would be happy to discuss it further at your convenience.

Sincerely,

cc: Linda Tanton, President FTA Board of Trustees, Maryland Office of the Comptroller  
Jonathan Lyon, FTA Senior Manager-Tax Technology