



PAYMENT OF TAX BY ELECTRONIC FUND TRANSFER (EFT)

To: *All Alcohol and Tobacco Tax and Trade Bureau Taxpayers and Others Concerned.*

1. PURPOSE

This Procedure provides instruction and guidance to taxpayers who are required or who elect to pay taxes to the Alcohol and Tobacco Tax and Trade Bureau (TTB), including alcohol, tobacco, and firearms and ammunition excise taxes, special occupational taxes, and floor stocks taxes, via electronic fund transfer (EFT).

This Procedure supersedes ATF/TTB Procedures 91-1 and 92-1.

2. APPLICABILITY

This Procedure applies only to EFT payments intended for TTB. The instructions and guidance contained in this Procedure are not applicable to EFT payments intended for other agencies such as for taxes on imported alcohol and tobacco products payable to U.S. Customs and Border Protection, payments to the Internal Revenue Service, or payments to the Bureau of Alcohol, Tobacco, Firearms and Explosives. EFT payments to another agency should be made in accordance with the requirements of that agency.

3. BACKGROUND

An EFT is a non-paper, computer-to-computer transfer of funds from a taxpayer's financial institution account to the Department of the Treasury's account at a Federal Reserve Bank. Such transfers are initiated through an electronic terminal and not by check, money order, or other paper instrument.

For purposes of this procedure, the term "EFT" includes transfers through the Federal Reserve Communications System to the Department of the Treasury's main account at the Federal Reserve Bank of New York, and Automated Clearing House (ACH) credit transfers. For more information on these types of EFT payments visit our website at http://www.ttb.gov/tax_audit/eft_via_fedwire.shtml.

A taxpayer may also file his or her TTB excise tax return and pay his or her excise taxes electronically using Pay.gov. Pay.gov formats the transaction and facilitates the tax payment through a secure website hosted by the Department of the Treasury's Financial Management Service. Visit the TTB website at <http://www.ttb.gov/epayment/epayment.shtml> for specific information on how to use each of the methods of making EFT payment described above.

4. GENERAL INSTRUCTIONS

Any taxpayer required to make a payment to TTB can make his or her payment using EFT. However, alcohol and tobacco taxpayers who are liable during any calendar year for \$5 million or more in Federal excise taxes imposed on distilled spirits, wines, or beer, or on tobacco products and cigarette papers and tubes, are required to pay such taxes during the following year via EFT. (For additional information, see Section 5 below.)

A firearms and ammunition excise taxpayer may voluntarily elect to make tax payments using EFT, but an FAET taxpayer who elects to make tax payments by EFT **must** continue to make these payments by EFT for a minimum of four consecutive calendar quarters.

A taxpayer must send a separate EFT payment for each TTB tax form that is required to be filed. A taxpayer may not use one EFT transfer to pay the tax reported on two or more tax returns (e.g. taxpayers may not combine tax liability from more than one excise return, nor may they combine the tax liability from an excise tax return and a floor stocks tax return).

A taxpayer should follow up with his or her financial institution to ensure that the EFT payment was made. Such follow-up should include verification that funds were removed from the taxpayer's account and an acknowledgement by the financial institution that the payment was received by the appropriate Federal Reserve Bank. This information will serve as the record of payment to be retained as part of the taxpayer's records and may be useful if it becomes necessary to resolve any discrepancies.

Taxpayers may choose to make their EFT payments on the last day prescribed by law for such payments. However, to facilitate processing, TTB strongly encourages taxpayers to file their tax form prior to making their EFT payments well in advance of the filing due date. This procedure will allow TTB to quickly match the tax return to the EFT payment and to find any discrepancies. Undetected discrepancies may be costly to the taxpayer in terms of additional penalties and interest owed. If you choose to make your tax payments using Pay.gov, please refer to the instructions on the TTB website at <http://www.ttb.gov/epayment/epayment.shtml>. Federal law provides a penalty for failure to pay the amount shown as tax on a return on or before the date prescribed for payment of such tax (see 26 U.S.C. 6651(a)(2)). The law also provides a penalty for failure to make timely deposits of taxes (see 26 U.S.C. 6656(a)). These penalties will

be imposed unless the taxpayer can show that the failure to make a timely deposit or payment of tax was due to reasonable cause and not willful neglect. There is no such provision for forgiving interest when an EFT payment is not made on a timely basis.

NOTE: EFT payment *must* be received by TTB on or before the established due date outlined on the tax form or in the applicable tax due date chart. Visit the TTB website at http://www.ttb.gov/tax_audit/fed_ex_tax_due.shtml for the current tax due date charts.

5. ALCOHOL AND TOBACCO TAXPAYERS REQUIRED TO PAY EXCISE TAXES BY EFT

A taxpayer who, in a calendar year, was liable for a gross amount of \$5 million or more in Federal excise taxes on distilled spirits products, wine products, beer products or on tobacco products and cigarette papers and tubes must use a financial institution to make tax payments via EFT during the succeeding calendar year. Payments of taxes by cash, check, or money order are not authorized for a taxpayer required to make remittances by EFT.

The term "taxpayer" includes a controlled group of corporations as defined in the Internal Revenue Code of 1986 (see 26 U.S.C. Sections 1563, 5061(e)(3), and 5703(b)(3)). Furthermore, the controlled group principles apply to a group of persons under common control where one or more of such persons is not a corporation. See 26 U.S.C. Section 5061(e)(3)(B). Therefore, if, in any calendar year, the combined liability of the controlled group was \$5 million or more with respect to the excise taxes on distilled spirits, wines, or beer or on tobacco products and cigarette papers and tubes, then, during the following calendar year, each member of the controlled group is required to pay such taxes by EFT.

The \$5 million threshold and the requirement to make excise tax payments by EFT apply separately to the tax on distilled spirits products, wine products, and beer products. For example, if a company, ABC Corporation, operates a bonded wine premises with a Federal excise tax liability in excess of \$5 million and a distilled spirits plant with a liability of less than \$5 million, then ABC Corporation must make its excise tax payments for the bonded wine premises via EFT, but is not required to make tax payments for the distilled spirits plant by EFT. If ABC Corporation operates a brewery with a Federal excise tax liability of \$3 million and a distilled spirits plant with a liability of \$3 million, the company is not required to pay by EFT for either business. However, the \$5 million threshold applies to a taxpayer's combined Federal excise tax liability on tobacco products and cigarette papers and tubes. Therefore, if a taxpayer pays tax on both tobacco products and cigarette papers and tubes and if, in any calendar year, the combined tax liability on these products was \$5 million or more, the taxpayer must, during the following calendar year, make all excise tax payments on both tobacco products and cigarette papers and tubes by EFT.

The \$5 million threshold applies to the "gross" amount of Federal excise tax for which a taxpayer was liable during a calendar year, with the amounts being determined separately for distilled spirits products, wine products, and beer products and combined for tobacco products and cigarette papers and tubes. For products other than beer, the "gross" amount of liability is defined as the dollar amount of the excise tax liability on all taxable withdrawals and all importations during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which taxable withdrawals or importations were made.

In calculating the dollar amount of the excise tax liability for beer, defined as the gross tax liability on all taxable removals, taxpayers will apply the applicable tax rate to their net taxable removals. A net taxable removal is defined as the quantity of beer removed for consumption or sale less the quantity of beer returned to the brewery from which removed during the same time period.

When the gross amount of excise tax liability per calendar year has been calculated, and a determination has been made to pay a particular type of tax by EFT during the following calendar year, then all payments in the following calendar year with respect to such taxes must be made by EFT. The requirement to use EFT applies to taxes paid pursuant to TTB returns, whether such EFT payments are made by prepayment or deferred payment. If a floor stocks tax is imposed on a taxpayer's inventory, any taxpayer currently required to pay their excise tax by EFT must also pay their floor stocks tax by EFT.

The requirements of this section are contained in 27 CFR 19.524(a), 27 CFR 24.272(a), 27 CFR 25.165(a), 27 CFR 40.165a(a), and 27 CFR 46.233.

6. TAXPAYER'S WRITTEN NOTIFICATION

Alcohol and Tobacco Taxpayers

Alcohol and tobacco taxpayers who are not already paying their Federal excise taxes to TTB via EFT **must** notify the Director of the National Revenue Center in writing when their gross liability for those taxes reaches \$5 million in a calendar year. Write to the Director of the National Revenue Center at:

Alcohol and Tobacco Tax and Trade Bureau
National Revenue Center
550 Main Street, Suite 8002
Cincinnati, Ohio 45202

This notice, which will be considered the taxpayer's agreement to make payments by EFT, must be submitted by January 10 of the year in which the taxpayer must begin paying their excise tax via EFT. The notice must identify each of the taxpayer's premises required to pay via EFT and must include for each premises: (1) The name

shown on the return; (2) the registry or plant number, if any; (3) the plant address; and (4) the employer identification number. Taxpayers already using EFT do not need to notify the Director of the National Revenue Center of their continued use of EFT in succeeding calendar years. (See 27 CFR 19.524(b)(1), 27 CFR 24.272(b)(1), 27 CFR 25.165(b)(1), and 27 CFR 40.165a(b)(1))

The requirement for a written notice **does not** apply to importers or other intermittent taxpayers who do not typically file TTB tax returns (such as retailers who pay floor stocks tax). Even if such taxpayers are required to make EFT payments to TTB because they reach the \$5 million threshold, they are not required to submit the written notice to the National Revenue Center.

Firearms and Ammunition Taxpayers

Firearms and ammunition taxpayers who elect to make tax payments to TTB via EFT shall notify the Director of the National Revenue Center in writing of that fact. TTB will consider that notice to be an agreement to make tax payments via EFT. Taxpayers must submit their written notification on or before the 10th day of the calendar quarter preceding the calendar quarter in which the taxpayer will begin making payments to TTB via EFT. Once taxpayers have made this notification, they are *not* required to notify the Director of the National Revenue Center of their continued use of EFT in succeeding calendar quarters. (See 27 CFR 53.158(a) and (b))

7. DISCONTINUANCE OF EFT TAX PAYMENTS

Alcohol and Tobacco Taxpayers

Alcohol and tobacco taxpayers who make Federal excise tax payments to TTB via EFT, and who in the preceding calendar year were liable for a gross amount of less than \$5 million of such taxes may elect, during the succeeding calendar year, either to continue using EFT or begin using some other approved form of payment such as check or money order.

A taxpayer who files TTB tax returns and who properly elects to discontinue using EFT must attach to the first return on which they choose to discontinue paying the tax by EFT a written notification to that effect addressed to the Director of the National Revenue Center. The notification shall state that no Federal excise taxes are due via EFT because, during the preceding calendar year, the gross amount of the taxpayer's liability with respect to such taxes was less than \$5 million. In addition, the tax payment must accompany the return.

A taxpayer who has more than one location responsible for filing TTB tax returns must attach the required written notification to the first return filed by each set of premises which is discontinuing the use of EFT. (See 27 CFR 19.524(b)(3), 27 CFR 24.272(b)(3), 27 CFR 25.165(b)(3), and 27 CFR 40.165a(b)(3)).

Firearms and Ammunition Taxpayers

At any time after making tax payments to TTB via EFT for four consecutive calendar quarters, firearms and ammunition taxpayers may elect to discontinue making payments by EFT and resume using some other approved form of payment such as check or money order. A taxpayer who elects to discontinue using EFT shall attach to the first tax return on which they choose to discontinue paying the tax by EFT a written notification to the Director of the National Revenue Center stating that payment of firearms and ammunition excise tax will no longer be made by EFT. (See 27 CFR 53.158 (b)(3).)

8. PREPARING AND FILING TTB TAX RETURNS

Taxpayers making payments to TTB via EFT will check or show "EFT" in the item on the tax form requesting type or kind of payment or remittance. This information is very important for the proper crediting of the taxpayer's account. All other items on the tax form will be prepared in accordance with instructions on the form with the exception that EFT taxpayers will ignore any instruction or items indicating that the payment should accompany the tax form. (See 27 CFR 19.524(c)(1), 27 CFR 24.272(c)(1), 27 CFR 25.165(c)(1), 27 CFR 40.165a(c)(1)), and 27 C.F.R. Section 53.158(c)(1).

The use of EFT to pay taxes to TTB does not change either the due date of the tax form or the place of filing. *Addresses of locations for filing tax forms are shown on the tax form.*

9. INQUIRIES

Inquiries about how to submit an EFT payment to TTB or the requirement to pay Federal excise taxes to TTB via EFT can be answered by calling TTB toll-free at: 1-877-TTB-FAQS (1-877-882-3277) or at (513) 684-3334.

Inquiries about the requirement to pay Federal excise taxes via EFT to U.S. Customs and Border Protection on imported alcohol and tobacco products, including preparation of entry or withdrawal documents, collection processing procedures, and preparation of EFT payments, should be directed to your local U.S. Customs and Border Protection office.

Signed by John J. Manfreda

John J. Manfreda
Administrator
Alcohol and Tobacco Tax and Trade Bureau