

**THE CITY OF NEW YORK
DEPARTMENT OF FINANCE**

NOTICE OF RULEMAKING

Pursuant to the power vested in me as Commissioner of Finance by sections 389(b) and 1043 of the New York New York City Charter and section 11-687(1) of the Administrative Code of the City of New York, I hereby promulgate the within amendment to the Rules Relating to the Electronic Filing of Returns and Payment of Tax.

/S/ Andrew S. Eristoff
Commissioner of Finance

Section 1. Chapter 17 of Title 19 of the Rules of the City of New York Relating to Mailing Rules for New York City Income and Excise Taxes, last amended October 12, 1984, is retitled Filing Rules for New York City Income and Excise Taxes and a new section 17-03 is added to read as follows:

§17-03. Electronic Filing and Payment. (a) *General rule.* Notwithstanding anything to the contrary in any other section of these rules, the Commissioner of Finance may establish programs or systems whereby taxpayers or other persons required to file any return, report, or other form required to be filed with the Commissioner under Chapters 5, 6, 7, 9, 11, 12, 14, 21, 24 and 25 of Title 11 of the Administrative Code of the City of New York or the rules relating thereto, may elect to file any designated return through electronic means. As used in this section, the term “designated return” shall mean any return, report or other form required to be filed under such chapters or rules that the Commissioner has designated for filing through electronic means.

For purposes of Chapters 5, 6, 7, 9, 11, 12, 14, 21, 24, and 25 of Title 11 of the Administrative Code and these rules, an electronically filed designated return will be deemed to be filed on the date of issuance of a confirmation number or other evidence of filing, by the Commissioner, to the person filing the return. The issuance of such a confirmation number or other evidence of filing by the Commissioner shall be prima facie evidence that the person filed a return, as required under such Chapters or rules.

Any designated return filed electronically must be signed electronically by the same natural person or persons who are required to sign or certify the return under any provision of Title 11 of the Administrative Code or under these rules. The required person or persons will be deemed to have electronically signed the return upon the entry of each such person’s identifying information in accordance with the instructions set forth by the Commissioner.

(b) *Electronic payment.* Notwithstanding anything to the contrary in any other section of these rules, the Commissioner of Finance may authorize a taxpayer, or other person required to collect and pay over any tax, to pay any tax due or moneys collected by means of an electronic funds transfer (EFT) from the person’s cash account. Prior to making a payment of tax or moneys due, a taxpayer, or other person required to collect and pay over any tax, must be authorized by the Department of Finance to make EFT payments. To receive authorization, the taxpayer, or other person required to collect and pay over any tax, must execute an agreement on a form prepared by the Department of Finance in which the taxpayer, or other person required to collect and pay over any tax, furnishes the Department with all the account information requested by the Department to enable it to complete the EFT transaction. Such information shall include, but not be limited to, the name, location and number of the account from which an EFT shall be authorized. Where a taxpayer or other person has been authorized to make payment electronically, any such payment shall be deemed to have been made on a timely basis provided that, on or before midnight of the due date of such payment, the person authorizes the Commissioner to initiate payment and the payer's cash account is properly identified and contains sufficient funds to enable the successful completion of the EFT. For any such payment made electronically, the Commissioner shall debit the payer's account no less than 48 hours from the close of business on the due date of such payment.

§2. Subdivision (d) of section 3-05 of the Rules Relating to Banking Corporations, promulgated November 27, 1985 and last amended April 16, 1998 is amended to add a new paragraph (8) to read as follows:

(8) *Electronic filing.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns and reports required by this section.

§3. Section 3-06 of such rules is amended to add a new subdivision (d) to read as follows:

(d) *Electronic filing and payment.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of any request for extension and payment of any tax required to be paid by this section.

§4. Section 6-07 of the Rules Relating to Commercial Motor Vehicles, promulgated September, 1972 and last amended October 11, 1996, is amended to add a new subdivision (e) to read as follows:

(e) *Electronic filing.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns and reports required by this section.

§5. Section 6-08 of such Rules is amended to designate the existing text as subdivision (a) and to add a new subdivision (b) to read as follows:

(b) *Electronic payment.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic payment of any tax required to be paid by this section.

§6. Section 7-07 of the Rules of the City of New York Relating to the Commercial Rent Tax, promulgated June 1, 1963 and last amended May 10, 1993, is amended to designate the existing text as subdivision (a) and to add a new subdivision (b) to read as follows:

(b) *Electronic filing.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns and reports required by this section.

§7. Section 7-09 of such rules is amended to designate the existing text as subdivision (a) and to add a new subdivision (b) to read as follows:

(b) *Electronic filing.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of requests for extension required by this section.

§8. Section 7-10 of such rules is amended to designate the existing text as subdivision (a) and to add a new subdivision (b) to read as follows:

(b) *Electronic payment.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic payment of any tax required to be paid by this section.

§9. Subchapter E of Chapter 11 of Title 19 of the Rules of the City of New York Relating to the General Corporation Tax promulgated August 23, 1972 and last amended April 16, 1998, is amended to add a new section 11-95 to read as follows:

§11-95 Electronic Filing and Payment. Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns, reports, or other forms and the electronic payment of tax required by this chapter.

§10. Subdivision (d) of Section 12-07 of the Rules Relating to the Hotel Room Occupancy Tax, promulgated March, 1985 and last amended October 27, 1999, is hereby amended to read as follows:

(d) *Electronic filing and payment.* [Notwithstanding anything to the contrary in this section 12-07, the Commissioner of Finance may establish a program or system whereby operators may elect to file the return required by section 11-2504 of the Administrative Code of the City of New York by electronic means.

For purposes of Ad. Code section 11-2504(a), a return filed electronically will be deemed to be filed on the date of issuance of a confirmation number or other evidence of filing by the Commissioner to the operator as evidenced in the records of the Commissioner. The issuance of such a confirmation number or other evidence by the Commissioner to the operator shall be prima facie evidence that the operator filed a return as required by Ad. Code section 11-2504.

A return filed electronically shall be deemed to be signed by the operator upon the electronic entry of a personal identification number (PIN) or other number assigned to the operator by the Commissioner for such purpose. The electronic submission of a return accompanied by such a PIN or other number shall be prima facie evidence of compliance by the operator with the signature requirements of subdivision (a) of this section 12-07. In addition, the electronic entry of a PIN or other such number together with a return shall be prima facie evidence of the operator's declaration under penalties of perjury that to the best of the operator's knowledge and belief, the return and all accompanying data is true, correct and complete.

Notwithstanding anything to the contrary in this section 12-07, the Commissioner of Finance may authorize an operator to pay any tax due or moneys collected by means of an electronic funds transfer (EFT) from the operator's cash account. Where an operator has been authorized to make payment electronically, any such payment shall be deemed to have been made on a timely basis provided that on or before midnight of the due date of the return, the operator authorizes the Commissioner to initiate such payment and the operator's cash account is properly identified and contains sufficient funds to enable the successful completion of the EFT.] Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns and reports and the electronic payment of tax required by this chapter.

§11. Section 23-08 of the Rules Relating to the Real Property Transfer Tax, promulgated July 30, 1965 and last amended August 6, 1999, is amended to designate the existing text as subdivision (a) and to add a new subdivision (b) to read as follows:

(b) *Electronic payment.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic payment of any tax required to be paid by this section.

§12. Section 23-09 of such rules is amended to add a new subdivision (d) to read as follows:

(d) *Electronic filing.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns and reports required by this section.

§13. Section 23-10 of such rules is amended to designate the existing text as subdivision (a) and

to add a new subdivision (b) to read as follows:

(b) *Electronic filing of extensions.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of applications for extensions of time for filing or returns permitted by this section.

§14. Section 25-04 of the Rules Relating to Retail Licensees of the State Liquor Authority, promulgated November 18, 1985, is amended to add a new subdivision (e) to read as follows:

(e) *Electronic filing.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns and reports required by this section.

§15. Section 25-06 of such rules is amended to designate the existing text as subdivision (a) and to add a new subdivision (b) to read as follows:

(b) *Electronic payment.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic payment of any tax required to be paid by this section.

§16. Section 28-18 of the Rules Relating to the Unincorporated Business Tax, promulgated August 19, 1985, is amended to add a new subdivision (j) to read as follows:

(j) *Electronic filing and payment.* Pursuant to 19 RCNY §17-03, the Commissioner may authorize the electronic filing of returns, reports, or other forms, and the electronic payment of tax required by this chapter.

BASIS AND PURPOSE OF AMENDMENTS

These amendments affect the rules relating to the filing of various reports and returns by authorizing, but not requiring, the Commissioner of Finance to establish one or more programs or systems whereby taxpayers or other persons may elect to file and sign designated returns, reports, or other forms electronically. These amendments also authorize but do not require the Commissioner to establish one or more programs whereby taxpayers or other persons required to collect and pay over any tax may do so by electronic means.

/S/ Andrew S. Eristoff
Commissioner of Finance