

05-2-R April 20, 2005

## **FINANCE MEMORANDUM**

### **Mandatory Payment of Real Property Taxes by Electronic Funds Transfer**

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New York City Administrative Code §11-128, enacted by Chapter 60 of the Laws of New York of 2004, requires that owners with an annual tax liability of \$300,000 or more pay real property taxes by electronic funds transfer. This Memorandum explains the new statute and describes how Finance will administer this requirement.

#### **Who must pay real property taxes by electronic funds transfer?**

The law authorizes “the commissioner [to] require the payment of real property taxes by electronic funds transfer (EFT) for those with an annual real property tax liability equal to or greater than three hundred thousand dollars” (§11-128 [c]). The \$300,000 threshold applies on an aggregate basis in the following manner:

- Where a taxpayer pays for **more than one property** by a single payment and the total annual real property tax amount is \$300,000 or more, the total tax liability for the year determines if EFT is required (§11-128[c][1]). For example, if one corporation owns three properties, each with an annual tax liability of \$100,000, the \$300,000 total would be used to determine that this taxpayer was subject to the EFT requirement.
- For taxes paid for **more than one owner on a single bill** or by **a single entity**, such as a mortgage escrow agent, payment by EFT is required if the annual total amount paid is at least \$300,000 (§11-128[c][2]).

#### **What does the \$300,000 apply to?**

The \$300,000 threshold refers to the annual net real property tax liability (§11-128[c]) as of July 1 of each tax year. This means that if an exemption, abatement or other reduction lowers the liability below the threshold as of July 1 of a tax year, the requirement does not apply for that tax year. This threshold level does not apply to other real property related charges, such as BID assessments.

- ***Payments in anticipation of closing:*** The law does not provide an exception for any particular type of real property taxpayer or for a particular category of payment of real property taxes. Therefore, as long as the tax paying entity meets the \$300,000 threshold then the requirement is applicable.
- For the July 2005 payment period, however, Finance will not require one-time property tax payments made on behalf of buyers or sellers by title companies in anticipation of title closings to be made electronically. We do encourage the use of electronic payments in these cases.

## **How do I know if I am required to pay by EFT?**

Finance is required to mail a notice of the EFT requirement to “the property owner or other party who has been designated to receive real property tax bills . . . .” (§11-128[e]). The notice must also include the date by which the owner or party designated by the owner to pay property taxes must enroll.

## **How do I pay electronically?**

If you are required to pay by EFT, by law you have two options for payment:

- ***Taxpayer initiated program:*** Taxpayers initiate payment by electric funds transfer, including payment by fedwire (§11-128[d][1]).
- ***Automatic debit program.*** Taxpayers authorize Finance, or the department's designee, to debit the taxpayer's account for the amounts due (§11-128[d][2]).

## **How do I register for the EFT program?**

Enrollment will be on a form designated by Finance, which will be in an electronic format, accessible through our website. For the automatic debit option, taxpayers will execute an EFT agreement with Finance, authorizing Finance to debit their account on the last day that a tax installment can be paid without interest. Taxpayers will also be required to provide Finance with information needed to complete the EFT, including the name and address of the bank the EFT is authorized from; account number from which the payment shall be authorized; and the American Bankers Association (ABA) routing number (§11-128[f]). Alternatively, the taxpayer must agree to make payments electronically on a timely basis. Enrollment will be accessed through Finance’s website. As explained below, all banking information will be confidential.

## **What is deemed to be a timely payment by EFT?**

The EFT law states when payments will be considered timely. For a taxpayer-initiated payment, payment must be initiated on or before the statutory due date for the tax installment, and the taxpayer’s account must contain sufficient funds to complete the transaction (§11-128[g][1]). For automatic debit, Finance must be authorized to debit the proper account by the last date for payment of the installment without interest. The account must be sufficiently identified. On the due date, the account must contain sufficient funds to complete the transaction (§11-128[g][2]).

If the amount in the account is not enough to satisfy the amount due or the account is not identified properly, interest will accrue from the statutory due date for the unsatisfied amount of the installment, and a returned check charge of \$20.00 will be imposed (§11-128[h]).

## **Will I receive any documentation when I pay electronically?**

Yes. When you make a payment by EFT, the system will generate a Record of Transaction. You should print out this Record and retain it for your records.

## **What if I am unable to comply?**

A taxpayer may apply for a waiver of the EFT requirement based on hardship (§11-128[h]). The Commissioner has discretion to grant the waiver based on factors that may include the nature of the hardship and the length of time requested for the waiver. A determination must be issued within 10 days of the request. No waiver may be granted for any installment due within 30 days of the date of the waiver request. Finance will make a waiver form available on our website.

**What if a taxpayer pays by check or other method when payment by EFT is required?**

The first time an electronic payment is required, but is paid by another means (such as by check), Finance will mail a warning notice listing the requirement to pay electronically and the penalties for failing to do so (§11-138[k][i]). For each subsequent violation, a penalty of one percent of the tax installment will be imposed. This penalty amount will accrue interest and will be a lien on the property that can be included in the tax lien sale or a foreclosure. (§11-138[k][ii]).

**Will my banking information be kept confidential?**

Information provided to effectuate the EFT transfer must be kept confidential. Further, the information supplied is not subject to the Freedom of Information Law (§11-128[j]).

**When will this EFT payment requirement begin?**

Finance will send notices to those required to pay by EFT by the Spring of 2005. The first real property tax period for which payments will be required to be made electronically will be for the payment due in July 2005.