

September 22, 2010

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20044

Re: Internal Revenue Service Proposal on Electronic Funds Transfer of Depository Taxes; REG-153340-09; 75 Federal Register 51707 (August 23, 2010).

Dear Commissioner Shulman:

The American Bankers Association (ABA)¹ appreciates this opportunity to comment on the proposed regulations relating to federal tax deposits (FTD) using the Electronic Federal Tax Payment System (EFTPS). Under the proposal, starting on January 1, 2011, the Financial Management Service of the Treasury Department will no longer process FTD paper coupons, instead requiring the use of the EFTPS for all FTDs. Because of the elimination of the paper coupon system, the proposed regulation would require banks and trust companies acting as trustee *always* to use the EFTPS to submit these potential taxes: (1) unrelated business income taxes of tax-exempt organizations; (2) private foundation excise taxes; (3) estimated taxes on certain trusts; and (4) non-resident alien tax deposits.

We understand and support the Internal Revenue Service's (IRS) efforts to reduce the amount of paper mailings, thereby reducing error rates and the costs of processing paper coupons.² ABA recognizes that electronic transactions can be more secure and efficient than processing paper checks and coupons in bank branches and supports the IRS in this migration to a less expensive payment alternative. This position is reflected in the decision already made by many banks to cease accepting FTD coupons on the commercial side of the bank. The banks that have stopped accepting FTD coupons have reported minimal negative customer response. We also agree that IRS bulk mailings of FTD coupons are unnecessary when no payment is due and when the entities already use EFTPS.

However, we urge the IRS to retain some flexibility in the system to handle those exceptional circumstances in which the use of EFTPS is not possible. These exceptions include situations in

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$13 trillion banking industry and its 2 million employees. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities. Learn more at www.aba.com.

² In that vein, we would welcome further reduction of other mailings, such as tax instruction booklets, Form 1040-ES, Form 1041-ES and other forms which already can be printed from a financial institution's tax systems as needed.

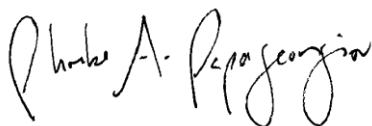
which technical difficulties prevent a bank from enrolling a new entity in a timely manner, as well as the fact that entities must sometimes wait up to three days to be accepted into the EFTPS. For example, a bank may become a successor trustee for a foundation just a day or two before the taxpayer must pay its federal taxes. If the taxpayer has not been previously approved by the IRS for EFTPS payments, the bank may not have enough time to perform all the steps required to make the payment through EFTPS.

Even after an entity has been accepted for enrollment in the EFTPS, it is not uncommon for the system to reject payments, thereby necessitating a paper coupon to meet necessary deadlines. These rejections often occur with entities, such as private foundations, that operate on a fiscal year tax period. In the enrollment process, the system does not display the record of the entity's fiscal year. To a bank it may appear that enrollment in the EFTPS is successful; however, later after the payment is made, the system rejects the payment. In these cases, the rejections are a result of a tax year end mismatch between the IRS and the taxpayer. Because banks may make monthly remittances for fiscal year accounts and even more frequent deposit requirements for non-resident alien accounts, it is unlikely that *all* taxpayers will be successfully enrolled and able to use the EFTPS at *all* times. Therefore, our member institutions need to continue to make payments using the paper coupon system.

Given the need for flexibility, we ask that the IRS continue allowing banks and other institutions to mail checks to an IRS address when the taxpayer was unable to use EFTPS for good reason and not due to willful neglect. Under the current regime, if a new entity has applied for but has not received a taxpayer identification number, the payment may be sent to the IRS address where the return is filed. The check is made payable to the United States Treasury, and the entity name, address, kind of tax, period covered, and date of taxpayer identification number application is included with the check. We ask that this alternative be preserve for the situations noted in this letter so that taxpayers are not penalized for making late payments due to no fault of their own. In addition, we urge the IRS to amend the EFTPS enrollment process to include a variable for the tax year end so that the payment rejections can be avoided in the future.

Please feel free to write or call the undersigned or Stephen Kenneally at (202) 663-5147 or skenneal@aba.com, if you have any questions or wish to discuss ABA's comments.

Sincerely,



Phoebe A. Papageorgiou
Senior Counsel