



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Department of Taxation

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Electronic Filing and Payment of IFTA Tax

Rule Number(s): 5703-13-07

Date of Submission for CSI Review: 9/11/20

Public Comment Period End Date: 9/30/20

Rule Type/Number of Rules:

New/1 rule

No Change/ ___ rules (FYR? ___)

Amended/ ___ rules (FYR? ___)

Rescinded/ 1 rule (FYR? X)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. Requires specific expenditures or the report of information as a condition of compliance.
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Ohio Rev. Code 5703.059 authorizes the Tax Commissioner to mandate electronic filing of any tax return and to promulgate rules requiring any payment of the tax be made electronically. Rule 5703-13-07 was promulgated in 2015 to accomplish this. As part of the five-year rule review process, this rule is being updated to increase readability and to mimic the language of some of the Department's other rules relating to e-filing and e-payment of taxes. Because the rule was updated significantly, it was rescinded and is considered new.

Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

R.C. 5703.05, 5703.14, 5703.059

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

No.

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- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

N/A

- 5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The original purpose of the rule was to require electronic filing and payment of IFTA returns. This continues to save the Department valuable resources.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The continued success of this rule will be measured by the percentage of the taxpayers that electronically file and pay. The goal is to have all IFTA filers file and pay electronically.

- 7. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

No

Development of the Regulation

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

On May 31, 2020, the Department of Taxation posted the draft rule in an information release on its website and emailed a link to the draft rule to all subscribers of its Tax Alert email notification system. The Department maintains the Tax Alert email notification system to keep tax professionals, business owners and other interested parties up to date on Ohio's tax laws. Taxpayers can sign up for Tax Alerts via the Department's website.

The rule was also posted for public comment when it was originally adopted in 2015.

- 10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

None.

- 11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

N/A

- 12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

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The Department did not consider alternative regulations. A rule is the only method available to the Tax Commissioner to implement the electronic filing requirement.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

N/A

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

R.C. 5703.05 vests all powers, duties and functions of the Department of Taxation in the Tax Commissioner, including tax filings and payments. R.C. 5703.059 authorizes the Tax Commissioner to require the electronic filing of returns and electronic payment of the tax. A review of the Department's existing rules reveals no current rule regarding electronic filing and payment of IFTA tax.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Since electronic filing and payment of IFTA taxes has been in effect since 2015, no additional implementation is needed. Again, this rule change only updates the verbiage of the rule; the process itself remains unchanged.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The rule will continue to impact the same community of filers that it has since its implementation approximately five years ago. Filers who can show good cause are still able to request to be excused from the requirement. The current quarterly IFTA filing population is approximately 10,000.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,);

Since the requirement to file and pay IFTA electronically already exists, no additional impact will come from the proposed updates to this rule. Most, if not all IFTA filers are already registered to file and pay electronically, and have been doing so for approximately five years.

c. Quantify the expected adverse impact from the regulation.

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Again, since the requirement to file and pay IFTA electronically already exists, no additional impact will come from the proposed updates to this rule. Most, if not all IFTA filers are already registered to file and pay electronically, and have been doing so for approximately five years.

Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

In 2015, the Department determined that the time-savings and cost-effectiveness of electronic filing and payment outweighed the minimal impact on the IFTA taxpayers. Since, there has been few, if any, complaints from the business community related to the electronic filing and payment requirements of this rule. The updates being proposed this time are non-substantive in nature, and thus do not create any additional adverse impacts on business.

Regulatory Flexibility

17. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The rule continues to allow a taxpayer to apply to the Tax Commissioner to be excused from the electronic filing and payment requirements.

18. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

N/A. Neither the rule nor the authorizing statute contains provisions for the imposition of a penalty for non-compliance with the electronic filing and payment requirement.

19. What resources are available to assist small businesses with compliance of the regulation?

The Department plans to provide information to the taxpayers in the same manner it has during the previous five years. This includes contact with Department via telephone by calling 1-855-466-3921, Ohio Business Gateway prompts, and aids/instructions on tax.ohio.gov.