

**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 11-128(l) of the New York City Administrative Code, I hereby promulgate the within amendments to the Rules Relating to Payment of Real Property Taxes by Electronic Funds Transfer. These amendments were published in proposed form on June 7, 2005. A hearing for public comment was held on July 8, 2005.

/s/Martha E. Stark
Commissioner of Finance

Section 1. Chapter 43 of title 19 of the Rules of the City of New York (Rules Relating to Payment of Real Property Taxes by Electronic Funds Transfer) is renumbered as Chapter 44, section 43-01 of such rules is repealed, and a new section 44-01 is added to such rules to read as follows:

[§ 43-01. Electronic Payment of Real Property Taxes. The Commissioner of Finance may, in his or her discretion, authorize payment of any real property tax by means of an electronic funds transfer (EFT) from the taxpayer's cash account.

(a) Authorization. Prior to making its first payment of real property tax by electronic funds transfer, a taxpayer must be authorized to make EFT payments by the Department of Finance. To receive authorization, the taxpayer must execute an agreement on a form prepared by the Department of Finance in which the taxpayer furnishes the Department with all the banking information requested by the Department to enable it to complete the EFT transaction. Such information shall include, but not be limited to, the name and address of the bank from which an EFT shall be authorized, the account number from which the payment shall be authorized and the borough, block and lot of the real property for which such payments shall be authorized. The agreement shall require that the taxpayer authorize the Commissioner of Finance to debit such account on the last date by which real property taxes may be paid without the accrual of interest in accordance with applicable law.

(b) Timely payment. A taxpayer's payment of real property tax by EFT shall be deemed timely and not subject to interest charges if such taxpayer has authorized the Commissioner of Finance to debit the taxpayer's account on the statutory due date in accordance with subdivision (a) of this section, and such account is properly identified and on the date that the tax payment is due, such account contains sufficient funds to enable the successful completion of the EFT.

(c) 48 hour period for EFT payments. For real property tax payments made by EFT only, the Commissioner shall debit a taxpayer's account no less than 48 hours from the close of business on the last date on which the tax can be paid without interest.]

§44-01. General authority. Section 11-128 of the Administrative Code of the City of New York authorizes the Department of Finance to accept and, with respect to real property taxes for any property with an annual tax liability equal to or greater than \$300,000, require, payment of real property taxes by electronic funds transfer.

§2. A new section 44-02 is added to such rules to read as follows:

§44-02. Mandatory payment by electronic funds transfer. (a) The real property taxes for any property with an annual tax liability equal to or greater than \$300,000 must be paid by electronic funds transfer.

(b) Notwithstanding any other provision of this section, where a taxpayer pays real property taxes for more than one property by a single payment, and the total annual real property tax liability for such properties is equal to or greater than three hundred thousand dollars, the total annual real property tax liability for such properties shall be used to determine whether the taxes for a property must be paid by electronic funds transfer.

(c) Notwithstanding any other provision of this section, where real property taxes are paid for more than one taxpayer by a single bill or paid by a single entity, including but not limited to a mortgage escrow agent as defined in paragraph c of subdivision four of section fifteen hundred nineteen of the charter of the city of New York, if the total amount paid is equal to or greater than three hundred thousand dollars annually, such amount shall be used to determine whether the taxpayer or entity is required to pay the real property taxes by electronic funds transfer.

(d) For purposes of these rules, “electronic funds transfer” shall mean any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account.

BASIS AND PURPOSE OF AMENDMENTS

In 2000, the Department of Finance promulgated the Rules Relating to Payment of Real Property Taxes by Electronic Funds Transfer in order to provide guidelines for taxpayers who voluntarily paid real property taxes electronically. Chapter 60 of the Laws of 2004 enacted section 11-128 of the Administrative Code of the City of New York to authorize the New York City Commissioner of Finance to require that payment of real property taxes must be made by electronic funds transfer for any real property with an annual tax liability equal to or greater than \$300,000. The Department of Finance is amending the rules to conform to the new law and require that the taxes for any real property with an annual tax liability equal to or greater than \$300,000 must be paid by electronic funds transfer. The provisions of the rules that were enacted in 2000 are superseded by the new law and are repealed by these amendments. These amendments also correct the numbering of the chapter and renumber it as chapter 44 of title 19 of the Rules of the City of New York.