

To: EFTA Members

From: Dennis Ambach, Legislative & Regulatory Council Chairman

Date: August 26, 2010

Re: Regulatory Update

Last week, the Treasury Department and Internal Revenue Service (IRS) issued a final rule on reporting of card revenue by payment networks to merchants. The Housing Assistance Tax Act of 2008 included this provision and Treasury and the IRS issued a proposed rule in late 2009. The reporting requirements take effect beginning December 31, 2010.

This update is not intended to provide any legal guidance. Therefore, I am linking the final rule here (<http://www.gpo.gov/fdsys/pkg/FR-2010-08-16/pdf/2010-20200.pdf>) so companies can share with in-house or outside legal counsel for any remaining compliance questions.

I do wish to highlight some important points in the final rule as follows:

- The final rule states that each payment settlement entity must report the “gross amount” of reportable card revenue (credit, debit and prepaid) and rejected comments that gross amount be defined as net sales (to include chargebacks and other adjustments).
- Electronic benefit transactions made for the purchase of goods and services must be reported. However, EBT withdrawals for cash would not be reportable.
- Transactions through the Automated Clearing House (ACH) network are not reportable.
- The final rule did adopt changes for the conversion of currencies other than the U.S. dollar. If a payment is made or received in a foreign currency, the U.S. dollar amount is determined by converting such foreign currency into U.S. dollars on the date of the transaction or pursuant to a reasonable spot rate convention.
- The final rule clarified that the dollar amount of each reportable payment transaction is determined on the date of the transaction as opposed to the settlement date.

Again, it would be advisable to consult legal counsel should you have questions or concerns with the final rule.