

May 15, 2009

Mr. Jim Eads  
Executive Director  
Federation of Tax Administrators  
444 North Capitol Street, NW, Suite 348  
Washington, DC 20001

Dear Mr. Eads,

Thank you for your letter of April 29, 2009 requesting a waiver of the application of the NACHA rules on International ACH Transactions (IAT) to tax payments. As you know, the NACHA rules apply to all ACH payments, including those sent to or from government agencies through a financial institution. The IAT rules were adopted in August 2007 in response to a request from the U.S. Treasury Office of Foreign Assets Control (OFAC) that participants in the ACH Network be able to identify international ACH transactions, and that such international transactions carry sufficient information to enable participants to comply with OFAC sanctions programs.

It may help to clarify that with respect to the American Payroll Association-National Payroll Reporting Consortium correspondence, NACHA did not grant a waiver of the IAT rules. Instead, we expressed an opinion that certain transactions did not meet the definition of international transactions under the NACHA rules, and therefore did not need to be formatted as IATs. The Federation of Tax Administrators and its members may use the same framework in evaluating their own payment scenarios - if the transactions do not meet the definition of international transactions, then they do not need to be formatted as IATs.

There are some factors that your members can consider in determining whether ACH transactions are international. For example, if a taxpayer is authorizing a payment via a web site, and the taxpayer has a foreign address or designates a foreign bank account, then the tax agency should determine whether the transaction should be an IAT. This would apply whether the transaction is a debit, used to collect funds from the taxpayer, or a credit, used to refund money to the taxpayer. If a transaction that is destined to leave the U.S. is not properly formatted as an IAT, it is possible that the receiving financial institution may not be able to process it and would return it to the originating financial institution. Even if such a transaction is an IAT, a tax agency may already have all the information necessary to properly format the IAT. Neither the tax agency nor the taxpayer is required to provide information about a foreign correspondent bank of which they have no knowledge.

In addition, tax agencies should understand that as receivers of ACH credit payments from taxpayers, they might receive IATs on behalf of foreign taxpayers. In such a case, the tax agency's financial institution would be receiving the additional information carried by the IAT.

While it does seem reasonable that tax collections pose little risk of violating OFAC sanctions, NACHA is not able to grant any entity an exemption from compliance with OFAC sanctions programs. NACHA can help put you in touch with OFAC if you believe such an exemption is warranted for your members. We would also be glad to assist you in evaluating specific payment processing scenarios to determine if they meet the definition of international transactions under the NACHA rules.

If you would like to meet with us or set up a call, please contact Kelley Shay at 703/ 561-3955 or [kshay@nacha.org](mailto:kshay@nacha.org).

Sincerely,



Janet O. Estep  
President & CEO

cc: Linda Tanton, President FTA Board of Trustees, Maryland Office of the Comptroller  
✓ Jonathan Lyon, FTA Senior Manager – Tax Technology