

## Business Impact Analysis

Agency Name: Department of Taxation

Regulation/Package Title: Electronic Filing and Payment of Severance Tax

Rule Number(s): 5703-35-01

Date: August 21, 2013

**Rule Type:**

NEW

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

**1. Please briefly describe the draft regulation in plain language.**

Ohio Rev. Code 5749.06(G)(1) (as enacted in Am. Sub. H.B. 59) authorizes the Tax Commissioner to mandate electronic filing and payment of severance tax returns. This rule implements the electronic filing and payment requirement for severance tax. Electronic filing and payment of taxes is more cost-effective and efficient for taxpayers. Further, electronic filing provides the taxpayer with an electronic repository of return and payment history. Finally, electronic filing promotes an efficient and economical administration of tax laws and reduces the costs associated with tax collection.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

R.C. 5703.05, 5703.14, 5703.059, 5749.06 (as amended in Am. Sub. H.B. 59)

- 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.

- 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)?**

Newly enacted R.C. 5749.06(G)(1) authorizes the Tax Commissioner to mandate electronic filing and payment of severance tax and allows the Tax Commissioner to adopt a rule in order to implement the electronic filing and payment requirement.

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

N/A.

### **Development of the Regulation**

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

On July 25, 2013, the Department of Taxation posted the draft rule in an information release on its website and emailed 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.

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

The Department received no comments or questions concerning the rule

- 9. 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

- 10. 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?**

A rule is the only method available to the Tax Commissioner to implement the electronic filing requirement.

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

N/A

**12. 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. A review of the Department's existing rules revealed no current rule regarding electronic filing and payment of severance tax.

**13. 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.**

The Department plans to implement the electronic filing mandate for returns filed for calendar quarters beginning on or after January 1, 2014. Since the first returns required to be filed electronically will be filed on or before May 15, 2014, this allows plenty of time to educate the affected taxpayers about this requirement. The Department is currently planning on providing notice to taxpayers regarding the future electronic filing via a Tax Alert. Additionally, the Department will post advanced notice on its website and mail notice to the affected stakeholders. Further, the Department will post an electronic notice on the Ohio Business Gateway to inform consumers about the electronic filing requirement.

**Adverse Impact to Business**

**14. 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;**

This rule will impact any person, as defined in R.C. 5749.01(E), who severs natural resources from the soil or water of Ohio. Currently, there are approximately 1,300 severers. In order to promote the efficient and economical administration of severance tax, persons may, for good cause, be excused from the electronic filing requirement.

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

The Department anticipates that businesses will experience minimal adverse impact from this regulation. This regulation does not require a business to collect any additional information in order to file and pay electronically. The information provided via electronic filing is the same as that currently required by a paper severance tax return.

Affected taxpayers will electronically file and pay severance tax via the OBG. The OBG is an online electronic filing and payment service currently utilized by businesses to file reports with many government agencies, including the Department of Taxation, Ohio Department of Commerce, Bureau of Worker's Compensation and Ohio Department of Job and Family Services.

Severers and owners who have not previously registered to use OBG will be required to register and learn how to file and pay returns on OBG. In addition, if a severer or owner asks to opt-out of electronic filing, they can submit the request to the Department in writing.

**c. Quantify the expected adverse impact from the regulation.**

First time users of OBG may contact the Department at 1-855-466-3921 for step-by-step instructions on registration and filing. The Tax Commissioner estimates that a taxpayer who uses that method will need approximately 15 minutes.

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

The time-savings and cost-effectiveness of electronic filing outweighs the minimal impact on the severance taxpayers. Electronic filing allows the Tax Commissioner to more efficiently process returns and payments and provides taxpayers with an electronic history of all filings and payments.

**Regulatory Flexibility**

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

R.C. 5749.06(G)(2) allows a taxpayer to apply to the Tax Commissioner to be excused from the electronic filing and payment requirements.

**17. 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. While the regulation includes a penalty for non-compliance, the violation concerns the assessment or collection of a tax and is therefore excluded from the mandates of R.C. 119.14. See, R.C. 119.14(C)(4).

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

As discussed above, the Department plans to provide information to the taxpayers in a variety of ways in advance of the implementation of the electronic filing mandate. Further,

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assistance in filing severance tax returns is available through contact with Department via telephone by calling 1-855-466-3921.

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