

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the Register 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY
DEVELOPMENTAL DISABILITIES

PREAMBLE

1. Sections Affected
R6-6-1509
- Rulemaking Action
Amend
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. §§ 41-1954(A)(1)(i), (A)(1)(j), and (A)(3); and 46-134(A)(12); 36-552 and 36-554
Implementing statute: A.R.S. § 36-596.54(A)
3. The effective date of the rules:
June 4, 1998
4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Rulemaking Docket Opening: 4 A.A.R. 562, February 20, 1998.
Notice of Proposed Rulemaking: 4 A.A.R. 738, March 20, 1998.
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Vista Thompson Brown
Address: Department of Economic Security
1789 West Jefferson, Site Code 837A
Phoenix, Arizona 85007
or
P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005
Telephone: (602) 542-6555
Fax: (602) 542-600
6. An explanation of the rules, including the agency's reasons for initiating the rules:
The Division needs to stagger the renewals for an HCBS certificate in order to conform to new rules which prescribe time-frames for issuing renewals. Currently, there are over 1700 HCBS providers whose renewals come due at the end of each state fiscal year. By staggering the renewals throughout the year, it will allow the Division to spread the work load throughout the year and ensure timely renewals of HCBS certificates.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
8. The summary of the economic, small business, and consumer impact:
Service providers of Home and Community-Based Services are considered small businesses. The proposed amendments will provide an intangible benefit for these service providers by allowing more timely processing of certificates. Consumers may also receive an intangible benefit through the potential increase in service providers due to more timely processing of certificates.
9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
At the request of the Governor's Regulatory Review Council staff, changed R6-6-1509(B). The change consists of deleting the phrase "a period of" to be consistent with R6-6-1509(A).

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10. A summary of the principal comments and the agency response to them:
There were no public comments on this rule.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
12. Incorporations by reference and their location in the rules:
Not applicable.
13. Was this rule previously adopted in an emergency rule?
Not applicable.
14. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY
DEVELOPMENTAL DISABILITIES

ARTICLE 15. STANDARDS FOR CERTIFICATION OF
HOME AND COMMUNITY-BASED SERVICE (HCBS)
PROVIDERS

Section
R6-6-1509. Duration of an HCBS Certificate

ARTICLE 15. STANDARDS FOR CERTIFICATION OF
HOME AND COMMUNITY BASED SERVICE (HCBS)
PROVIDERS

R6-6-1509. Duration of an HCBS Certificate

- A. An initial HCBS certificate is valid for 1 year from the date of issuance or a lesser period if so specified on the HCBS certificate.
- B. A renewal HCBS certificate is valid for a period of 1 year from the date of issuance or a lesser period if so specified on the HCBS certificate.

NOTICE OF FINAL RULEMAKING

TITLE 15. DEPARTMENT OF REVENUE

CHAPTER 4. DEPARTMENT OF REVENUE
PROPERTY AND SPECIAL TAX SECTION

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R15-4-117 | Repeal |
| R15-4-119 | Repeal |
| R15-4-120 | Repeal |
| R15-4-121 | Repeal |
| R15-4-122 | Repeal |
| R15-4-123 | Repeal |
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. §§ 42-105 and 42-141
Implementing statute: A.R.S. §§ 42-150, and 42-221
 3. The effective date of the rules:
June 15, 1998
 4. A list of all previous notices appearing in the Register addressing the final rule:
3 A.A.R. 2562, September 19, 1997
3 A.A.R. 3590, December 26, 1997
 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Ed Leyba, Administrator
Address: Assessment Standards & Equalization Section

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Telephone: (602) 542-3529

Or

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- 6. An explanation of the rule, including the agency's reasons for initiating the rule:
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
8. The summary of the economic, small business, and consumer impact:
9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
10. A summary of the principal comments and the agency response to them:
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
12. Incorporations by reference and their location in the rules:
13. Was the rule previously adopted as an emergency rule?
14. The full text of the rules follows:

TITLE 15. DEPARTMENT OF REVENUE

CHAPTER 4. DEPARTMENT OF REVENUE
PROPERTY AND SPECIAL TAX SECTION

ARTICLE 1. PROPERTY VALUATION

ARTICLE 1. PROPERTY VALUATION

- Section
R15-4-117. Sales ratio studies, frequency and timing Repealed
R15-4-119. Adjustments to sales ratio studies Repealed
R15-4-120. Sales ratio statistics Repealed
R15-4-121. Biennial equalization Repealed
R15-4-122. Equalization requirements Repealed
R15-4-123. Determination of compliance Repealed

- R15-4-117. Sales ratio studies, frequency and timing
A: Sales ratio studies shall be conducted four times a year as follows:
1. Pre-notice study. The Department shall annually prepare this sales ratio study by October 31 prior to the tax year.
a: The pre-notice study shall be used to determine whether property values have been listed on the tax rolls at their full cash value prior to the mailing of property value notices, as provided in R15-4-121(A).

- b. On or before September 30, counties not under contract with the Department for data processing services shall provide the Department with computer readable copies of their pre-notice files, in a format compatible with the Department's data processing system, for use in the pre-notice study.
- 2. Preliminary study. The Department shall annually prepare this sales ratio study by March 31 of the current tax year.
 - a. The preliminary study shall be used to determine whether property values have been listed on the tax rolls at their full cash value after the mailing of property value notices, as provided in R15-4-121(A).
 - b. On or before February 15, counties not under contract with the Department for data processing shall provide the Department with computer readable copies of their notice files, in a format compatible with the Department's data processing system, for use in the preliminary study.
- 3. Intermediate study. The Department shall annually prepare this sales ratio study by June 30 of the current tax year.
 - a. The intermediate sales ratio study shall be used to determine whether property values listed on the county assessor's certified roll are listed at full cash value for the current tax year, as provided in R15-4-121(A).
 - b. On or before May 15, counties not under contract with the Department for data processing shall provide the Department with computer readable copies of their certified files, in a format compatible with the Department's data processing system, for use in the intermediate study.
 - c. The intermediate sales ratio study shall form the basis of any equalization orders to be issued in odd-numbered years for the next tax year.
- 4. Final sales ratio study. The Department shall annually prepare this sales ratio study by September 30 of the current tax year.
 - a. The final study shall be the official sales ratio study for the current tax year.
 - b. On or before August 10, counties not under contract with the Department for data processing shall provide the Department with computer readable copies of their final files for the tax year, in a format compatible with the Department's data processing system, for use in the final study.
- B. Sales used in each of the four sales ratio studies for a given tax year shall span the same period of time.
 - 1. The time span for residential properties and vacant land shall be 18 months starting with sales from July 1 two years prior to the tax year through December 31 of the year prior to the tax year.
 - 2. The time span for commercial and industrial properties shall be 30 months starting with sales from July 1 three years prior to the tax year through December 31 of the year prior to the tax year.
- C. The Department shall give 60 days' written notice to the counties of any changes in computer readable formats compatible with the Department's data processing system.

R15-4-119. Adjustments to sales ratio studies

The Department shall adjust all sales prices used in its sales ratio studies by calendar year quarter to the fourth quarter (October

through December) of the year preceding the tax year for which the study is being made.

R15-4-120. Sales ratio statistics

- A. The Department's sales ratio studies shall employ the following three measures of central tendency: the median, the mean and the weighted mean. The Department's sales ratio studies shall employ the following three measures of dispersion: the coefficient of dispersion, the coefficient of variation, and the weighted coefficient of variation.
- B. The Department may supplement the sales data used in its sales ratio studies with independent appraisals. The Department may request the county assessors to conduct field appraisals using standard appraisal methods and techniques for this purpose.

R15-4-121. Biennial equalization

- A. By August 31 of each year, the Department shall notify the county assessors in writing of the specific numerical values for the measures of central tendency and dispersion that the Department will use in the following tax year to determine whether property values have been listed on the tax rolls at their full cash value. The primary measure of central tendency for this purpose shall be the median sales ratio. The primary measure of dispersion for this purpose shall be the coefficient of dispersion.
- B. By July 1 of odd-numbered years, the Department shall issue any equalization orders for the following tax year based upon a comparison of the measures of central tendency and dispersion in its intermediate sales ratio study with the measures of central tendency and dispersion specified in subsection (A) of this rule.

R15-4-122. Equalization requirements

- A. All equalization orders shall refer to the sales ratio statistics upon which the orders were based. The equalization orders shall specify the overall percentage increase or decrease in full cash values for those parcels to which the order applies. Those parcels shall be listed by parcel number or described by class, type of property, book and map number, geographical ("market" or "submarket") area, or any combination of the foregoing.
- B. The Department shall issue equalization orders to the county assessors by July 1 of odd-numbered years, if the Department's sales ratio studies indicate that one or more of the following conditions exist:
 - 1. Commercial and industrial properties within a county are not listed on the tax rolls at full cash value, as provided in R15-4-121(A);
 - 2. Residential or vacant properties in a market area within a county are not listed on the tax rolls at full cash value, as provided in R15-4-121(A);
 - 3. Property classes, geographic area, or other subgroups of the above properties are not listed on the tax rolls at full cash value, as provided in R15-4-121(A).
- C. The Department shall not issue equalization orders for a particular county, area, class or property classification if there are less than 30 sales, or less than 30 sales and appraisals, upon which to base such an order, unless the Department's statistical analysis shows, at the 95 percent confidence level, that the affected properties are not listed on the tax rolls at full cash value, as provided in R15-4-121(A).
- D. For the purpose of equalizing commercial and industrial property values, the Department shall supplement its sales ratio studies by one or more of the following:

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1. ~~Performing appraisals of sold or unsold properties, or requesting the county assessor to conduct such appraisals using standard appraisal methods and techniques;~~
2. ~~Adjusting sales prices to cash equivalent amounts on a parcel-by-parcel basis and conducting a ratio study or other comparative analysis using the adjusted cash equivalent values;~~
3. ~~Comparing the county assessor's average appraised value with average sales prices or with average market values derived from independent sources;~~
4. ~~Conducting other market value analyses of commercial and industrial property within the county, area, class or classification which is the subject of the sales ratio study.~~

R15-4-123. Determination of compliance

- A.** The Department shall determine compliance with equalization orders by computing the overall percentage change in full cash values for properties subject to the equalization order as follows:
1. Compute the total full cash value of the affected parcels for the upcoming tax year based on the county's prenotice files;
 2. Compute the total full cash value of the same parcels based on the county's certified roll for the current tax year;
 3. Subtract the amount computed in Paragraph (2) from the amount computed in Paragraph (1) to obtain the total increase or decrease in full cash value; and

4. Divide the remainder computed in Paragraph (3) by the amount computed in Paragraph (2) to obtain the overall percentage change in full cash values.
- B.** All new parcels and all existing parcels subject to significant physical change, as indicated by their property status codes assigned for the upcoming tax year, shall be excluded from the compliance computation in Subsection (A). For purposes of this rule, a "property status code" is a departmental code assigned to property to indicate whether the property is unchanged, has new construction, or has been significantly modified since the previous tax year.
- C.** The Department shall notify the county assessor in writing if the assessor has not complied with an equalization order, as provided in Subsection (A). The assessor shall make additional adjustments in the subject parcels until the overall percentage increase or decrease required by the equalization order has been attained. The county assessor shall not mail notices of property value for the tax year until the Department notifies the assessor in writing that the assessor has complied with any equalization orders issued for that county. In order to determine compliance by counties not under contract with the Department for data processing services, such counties shall submit to the Department, at least 30 days prior to the mailing of property value notices, computer readable copies of their property value files for the upcoming tax year in a format compatible with the Department's data processing system.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

**CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION**

PREAMBLE

1. **Sections Affected**

R15-10-301	<u>Rulemaking Action</u>
R15-10-303	Amend
R15-10-304	Amend
R15-10-305	Amend
R15-10-306	Amend
R15-10-307	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 42-105

Implementing statute: A.R.S. § 42-137.02
3. **The effective date of the rule:**

June 15, 1998
4. **A list of all previous notices appearing in the Register addressing the final rule:**

3 A.A.R. 2562, September 19, 1997

3 A.A.R. 3747, December 26, 1997

4 A.A.R. 508, February 20, 1998
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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Address: Tax Research & Analysis Section
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Notices of Final Rulemaking

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6. An explanation of the rule, including the agency's reasons for initiating the rule:

In 1992, the Arizona Legislature enacted A.R.S. § 42-137.02 providing for the payment of tax by electronic funds transfer or other immediately available monies. The statute grants the Department of Revenue authority to require, by rule, the payment of any tax (except property and individual income tax) by electronic funds transfer if the taxpayer had a liability for such tax in the preceding tax year of \$20,000 or more. Initially, the Department was directed to require payment by electronic funds transfer, of withholding tax and corporate estimated income tax. The initial threshold for these taxes was an average quarterly withholding tax liability of \$100,000 or more; or a corporate estimated income tax liability of \$100,000 or more in the prior tax year. The Department is authorized to prescribe, by rule, new taxpayers or threshold amounts. Taxpayers that do not meet the liability thresholds may voluntarily participate in the EFT program.

This rule making amends the rules to allow payroll services to act on behalf of taxpayers in making certain tax payments by electronic funds transfer. The amendments also allow taxpayers who have a luxury tax liability to elect to participate in the EFT Program, effective January 1, 1999.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

Identification of the Rulemaking:

The rules allow payroll services to act on behalf of taxpayers in making certain tax payments by electronic funds transfer. The rules also allow taxpayers who have a luxury tax liability to elect to participate in the EFT Program, effective January 1, 1999.

Summary of Information in the Economic, Small Business, and Consumer Impact Statement:

Data used in preparation of the economic, small business, and consumer impact statement includes figures based on current EFT filers and the projected increase in the number of filers due to the addition of luxury taxpayers. Benefits will accrue to the state general fund. Compliance by entities requesting to voluntarily remit by means of electronic funds transfer will necessitate a change in payment methods and may involve changes in processing and accounting systems. It is expected that the benefits of the rule will be greater than the costs.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Due to the inadvertent submission of an incorrect version of the Electronic Funds Transfer rules in the Notice of Proposed Rulemaking, the Secretary of State's Office made the following non-substantive changes to the rules.

The narrative forms of "twenty thousand dollars", "fifty thousand dollars", "one million dollars", and "one hundred thousand" were changed to "\$20,000", "\$50,000", "\$1 million", and "\$100,000" respectively, wherever they appear throughout the preamble and the text of the rules.

The "d" in department was changed to the uppercase "D" where it appears throughout.

Periods were added at the end of the section numbers throughout the text of the rules.

The narrative forms of "third" and "first" were changed to "3rd" and "1st" where they appear in the text of the rules.

Page 15, (A)(1), the narrative form of "one" was changed to "1".

Page 16, (h), the narrative form of "nine" was changed to "9".

In addition to changes made by the Secretary of State, the following specific changes, as well as some nonsubstantive grammatical changes, were made in response to comments received from the Governor's Regulatory Review Council Staff.

Page 9, definition paragraph 9, the words "these rules" have been deleted and replaced with the words "this Article".

Page 9, definition paragraph 14, has been changed to read, "Payor information number" means a confidential code assigned to identify the payor and allow the payor to communicate payment information to the Data Collection Center."

Page 9, definition paragraph 18, the word "taxpayer" has been changed to "payor".

Page 13, subsection C., the word "taxpayer" has been changed to "payor".

Page 13, paragraph (C)(2) has been changed from "Provide payment information timely" to "Provide timely payment information".

10. A summary of the principal comments and the agency response to them:

The Department did not receive any written or verbal comments on the rules after the publication of the rules in the Notice of Proposed Rulemaking.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.
12. Incorporations by reference and their location in the rules:
None.
13. Was the rule previously adopted as an emergency rule?
No.
14. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

Section

- R15-10-301. Definitions
- R15-10-303. Voluntary Participation
- R15-10-304. Authorization Agreement
- R15-10-305. Methods of Electronic Funds Transfer
- R15-10-306. Procedures for Payment
- R15-10-307. Timely Payment

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

R15-10-301. Definitions.

The following definitions apply for purposes of this Article the rules in Article 3—Authorized Transmission of Funds:

1. "ACH" means an automated clearing house that is a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.
2. "ACH credit" means an the electronic funds transfer generated by a the payor taxpayer, cleared through an the ACH for deposit to the Department account.
3. "ACH debit" means an the electronic transfer of funds from a the payor's taxpayer's account, as indicated on a signed authorization agreement, that which is generated at upon a the payor's taxpayer's instruction and cleared through an the ACH for deposit to the Department account.
4. "Addenda record" means the information required by the Department in an ACH credit transfer or wire transfer, in the approved electronic format prescribed in R15-10-306(B).
5. "Authorized means of transmission" means the deposit of funds into the Department account by electronic funds transfer.
6. "Cash Concentration or Disbursement plus" or "CCD plus" means the standardized data format approved by the National Automated Clearing House Association for remitting tax payments electronically.
7. "Data Collection Center" means a the 3rd party who, under contract with the Department, collects and processes electronic funds transfer payment information from payors taxpayers.
8. "Department" means the Arizona Department of Revenue.
9. "EFT Program" means the payment of taxes by electronic funds transfer as specified by this Article these rules."
910. "Electronic Funds Transfer" or "EFT" means any transfer of funds initiated through an electronic terminal, telephonic telephone instrument, computer, or magnetic

tape, where the person initiating the transfer orders, instructs, or authorizes so as to order, instruct, or authorize a financial institution to debit or credit an account using the methods specified in these rules.

- 4011. "Financial institution" means a state or national bank, a trust company, a state or federal savings and loan association, a mutual savings bank, or a state or federal credit union.
- 4112. "Payment information" means the data that which the Department requires of a taxpayer-payor making an electronic funds transfer payment.
- 4213. "Payor" means a the taxpayer or payroll service.
- 4314. "Payor information number" means a confidential code assigned to identify each taxpayer which identifies the payor and allow allows the payor to communicate payment information to the Data Collection Center.
- 15. "Payroll service" means a 3rd party, under contract with a taxpayer to provide tax payment services on behalf of the taxpayer.
- 4516. "State Servicing Bank" means a the bank designated under pursuant to A.R.S. Title 35, Chapter 2, Article 2.
- 4617. "Tax type" means a tax that which is subject to electronic funds transfer, each of which shall be considered a separate category of payment.
- 4718. "Wire transfer" or "Fedwire" means an instantaneous electronic funds transfer initiated generated by a payor the taxpayer.

R15-10-303. Voluntary Participation.

- A. For tax periods beginning on or after January 1, 1993, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than \$100,000 may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- B. For tax periods beginning on or after January 1, 1994, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than \$50,000 may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- C. For tax periods beginning on or after January 1, 1997, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than \$20,000 may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.

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- D. For tax periods beginning on or after July 1, 1997, a taxpayer who, under A.R.S. Title 42, Chapters 8, 8.1, 8.2, 8.3, 9.1 and 9.2 had an annual tax liability during the prior calendar year, of less than \$1 million dollars may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- E. For tax periods beginning on and after January 1, 1999, any taxpayer who has a luxury tax liability may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- F. A taxpayer authorized to participate in the EFT Program shall provide at least 30 days prior written notice to the Department if the taxpayer elects to cease voluntary participation in the EFT Program.

R15-10-304. Authorization Agreement

- A. The payor taxpayer shall complete an electronic funds transfer authorization agreement in the form prescribed by the Department at least 30 days prior to initiation of the 1st applicable transaction. The form shall include the following information:
1. Name and address of the taxpayer;
 2. Federal identification number ~~ID~~ Number of the taxpayer;
 3. Withholding number ~~Number of the taxpayer, if applicable;~~
 4. Transaction privilege tax license number of taxpayer, if applicable;
 - 4~~5~~. Type of action being taken;
 - 5~~6~~. Tax type;
 6. ~~Type of user;~~
 7. Method of payment;
 8. Name and phone number of taxpayer's EFT contact person;
 9. Name and address of any payroll service, if applicable;
 10. Name and phone number of the payroll service's EFT contact person;
 - 9~~11~~. Financial institution name and address;
 - 10~~12~~. Type of bank account;
 - 11~~13~~. Name on bank account;
 - 12~~14~~. Bank account number; and,
 - 13~~15~~. Bank routing transit number.
- B. A payor taxpayer shall submit a revised authorization agreement to the Department ~~provide~~ at least 30 days ~~days~~ prior written notice of ~~to~~ any change of ~~in~~ the required information required in subsection (A) by submitting a revised authorization agreement to the Department.

R15-10-305. Methods of Electronic Funds Transfer.

- A. Payors shall use the ~~The~~ ACH debit transfer method ~~shall be used by taxpayers to remit payment by electronic funds transfer unless the Department grants permission to use the ACH credit method.~~
1. ~~The taxpayer shall submit a written request to the Department which demonstrates the existence of a valid business purpose for using the ACH credit method in lieu of the ACH debit method.~~
 2. ~~A taxpayer who is already using the ACH credit method, or whose business operations make its use necessary or appropriate, shall be deemed to have a valid business purpose for using the ACH credit method to remit payments of Arizona taxes.~~
- B. The Department may authorize the use of the ACH credit method for payors desiring to use this method. A payor tax-

~~payer requesting that chooses to use of the ACH credit method shall provide the payment information as provided required in R15-10-306(B)(2).~~

- C. The Department may withdraw permission to use the ACH credit method of payment if ~~the actions of the payor taxpayer shows show~~ disregard for the requirements and specifications of these rules by failing to:
1. Make timely electronic funds transfer payments;
 2. Provide timely ~~Timely provide~~ payment information;
 3. Provide the required addenda record with the electronic funds transfer payment;
 4. Make correct payment.
- D. ~~Payors~~ Taxpayers who, for reasons beyond their control, are unable to use their established method of payment may request ~~that the Department accept deposits to transmit payments of tax to the Department account via wire transfer in accordance with the following:~~
1. ~~Prior to initiating the transmission, the~~ The payor taxpayer shall contact the Department, state the reason which prevents timely compliance under either the ACH debit method or ACH credit method, and obtain verbal approval to wire transfer the tax payment to the Department account prior to initiating the transmission.
 2. Approved wire transfers shall be accompanied by an addenda record, ~~which shall include that includes~~ the same information required for ACH credit transfers as specified in under R15-10-306(B)(2).

R15-10-306. Procedures for Payment.

- A. ~~Payors~~ Taxpayers using the ACH Debit Method shall report payment information to the Data Collection Center, ~~by an approved means of communication;~~ no later than the time prescribed by the State Servicing Bank on the last business day before the due date of the payment.
1. ~~Approved means of communication shall be one of the following~~ Payment information shall be communicated by 1 of the following means:
 - a. Operator-assisted communication of payment information made orally by rotary or touch-tone telephone,
 - b. Touch-tone communication of payment information made by entering data via key pad of a touch-tone telephone, or
 - c. Computer terminal linked with the Data Collection Center.
 2. ~~Payors~~ Taxpayers shall communicate the following payment information to the Data Collection Center:
 - a. Payor information number,
 - b. Taxpayer identification number,
 - c. Tax type,
 - d. Payment amount,
 - e. Tax period,
 - f. Payment due date, and
 - g. Payment sequence number.
- B. ~~Payors~~ Taxpayers authorized to use the ACH credit method shall initiate payment transactions directly with a financial institution in a timely manner to ensure that the payment is deposited to the Department account on or before the payment due date ~~to the Department account, pursuant to A.R.S. § 42-137.02 and A.A.C. Title 15, Chapter 10, Article 3.~~
1. All ACH credit transfers shall be in the CCD-plus addenda format.
 2. The addenda format, as specified in subsection (B)(1) above, shall include the following information:
 - a. Taxpayer identification number,
 - b. Tax type,

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- c. Payment amount,
- d. Tax period,
- e. Payment sequence number,
- f. Taxpayer verification number,
- g. Department account number, and
- h. American Bank Association 9-digit number of the receiving bank.

deposited to the Department account on or before the payment due date.

- B. If a tax due date falls on a Saturday, a Sunday, or on a legal holiday, the deposit by electronic funds transfer shall be made no later than 5:00 p.m. on the next first banking day thereafter.
- C. Taxpayers required to, or who voluntarily elect to, participate in the EFT Program shall be subject to the penalty prescribed by A.R.S. § 42-136(D) if payments are not deposited to the Department account on or before the payment due date.

R15-10-307. Timely Payment.

- A. ~~Payors~~ Taxpayers remitting tax payments through electronic funds transfer shall initiate the transfer so that the payment is

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

- | | |
|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| <p>1. <u>Sections Affected</u>
R20-6-114
R20-6-115
R20-6-159</p> | <p><u>Rulemaking Action</u>
Amend
Amend
Repeal</p> |
|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
- 2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. §20-143
Implementing statutes: A.R.S. §§ 41-1062 and 41-1092.09
 - 3. **The effective date of the rules:**
This rule will become effective when approved by the Governor's Regulatory Review Council and filed with the Secretary of State.
 - 4. **A list of previous notices appearing in the Register addressing the final rule:**
Notice of Docket Opening: 4 A.A.R. 161, January 9, 1998.
Notice of Proposed Rulemaking: 4 A.A.R. 220, January 16, 1998.
 - 5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Gregory Y. Harris
Address: Arizona Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, Arizona 85018
Telephone: (602) 912-8456
Fax: (602) 912-8452
 - 6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The rule revisions eliminate redundant and inconsistent rules, coordinate the rules with the practices of the Office of Administrative Hearings, and conform the rules to recent changes to the Administrative Procedure Act.
 - 7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
 - 8. **The summary of the economic, small business, and consumer impact:**
Arizona law establishes a right to a rehearing process. The rules establish the applicable process that the agency must, as a matter of law, have in place to permit the full adjudication of administrative litigation. The proposed rulemaking will eliminate redundant and inconsistent rehearing rules, coordinate the rehearing rules with the Office of Administrative Hearing procedures and conform the rehearing rules to recent changes in the Administrative Procedure Act. The Department anticipates that the rule revisions will not result in an economic impact to small businesses and consumers.
 - 9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
The Department made some technical corrections from the proposed rules.

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10. A summary of the principal comments and agency response to them:
The Department did not receive any comments supporting or opposing the rehearing rule revisions.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
12. Incorporations by reference and their location in the rules:
Not applicable.
13. Was this rule previously adopted as an emergency rule?
No, this rule was not adopted as an emergency rule.
14. The full text of the rule follows:

TITLE 20. COMMERCE, PROFESSIONS, AND OCCUPATIONS

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 1. HEARING PROCEDURES

Section

R20-6-114. Request for Rehearing or Review

R20-6-115. Response to Request for Rehearing

~~R20-6-159. Rehearing or Review of an Order of the Director~~
Repealed

R20-6-114. Request for Rehearing or Review

- A. Within 30 days after service of the Director's order on the hearing, any aggrieved party may request a rehearing or review of the order. The ~~Such~~ request shall be in writing and shall be served upon the Director as provided by R20-6-103, and a copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the request.
- B. A request for rehearing or review shall be based upon 1 or more of the following grounds which have materially affected the rights of a party:
 1. Irregularity in the hearing proceedings, or any order or abuse of discretion whereby the party seeking rehearing or review was deprived of a fair hearing;
 2. Misconduct by the ~~Director~~ director, the hearing officer or any party to the hearing;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence which could not have been discovered with reasonable diligence and produced at the hearing;
 5. Excessive or insufficient sanctions or penalties imposed;
 6. Error in the admission or rejection of evidence, or errors of law occurring at the hearing or during the course of the hearing;
 7. Bias or prejudice of the Director or hearing officer;
 8. That the order, decision, or findings of fact are not justified by the evidence or are contrary to law.
- C. ~~A~~ Each request for rehearing or review shall specify which of the grounds listed in subsection (B) it is based upon and shall set forth specific facts and laws in support of the request. ~~A~~ Each request may cite relevant portions of testimony from the hearing by referring to the pages or lines of the reporter's transcript of the hearing and may cite hearing exhibits by reference to the exhibit number.
- D. ~~A~~ Each request for rehearing shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order. A request for rehearing or review may seek multiple forms of relief in the alternative.

- E. When a request for rehearing is based upon affidavits, they shall be attached to and filed with the request unless leave for later filing of affidavits is granted by the Director or hearing officer. ~~Leave Such~~ leave may be granted ex parte.
- F. ~~A request~~ All requests for rehearing or review of the Director's order on the hearing which ~~is~~ are not timely made ~~is~~ shall be deemed to be waived for the purpose of judicial review. A party who fails to request rehearing or review of the Director's order on the hearing shall thereafter be barred from raising ~~such~~ a claim in any proceeding in which the Director, the hearing officer or the Department of Insurance is a party, except as otherwise required by law.
- G. A party may file a written request for a stay of the Director's decision. An order entered by the Director shall not be stayed by the filing of a stay request or a request for rehearing or review. The Director may stay an order pending the resolution of a request for rehearing or review or when justice requires.

R20-6-115. Response to Request for Rehearing

- A. Each party served with a request for rehearing pursuant to R20-6-114 shall be permitted to file a response within 15 days ~~after the request for rehearing has been filed~~ service. This response shall be designated as a "response to request for rehearing or review" and shall be in writing. Affidavits may be attached to and filed with the response. ~~If not filed in this manner, an affidavit shall be filed only if and shall not be filed thereafter unless leave for later filing of affidavits is granted by the hearing officer or Director. Leave Such~~ leave may be granted ex parte. The original ~~response~~ shall be filed with the Department as provided in R20-6-103, and ~~1~~ one copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the response.
- ~~B. The hearing officer or Director may, in his discretion, conduct a hearing or hear oral argument on a request for rehearing either upon motion of a party or upon his own initiative.~~
- B. The hearing officer or Director has the discretion to convene a hearing or hear oral argument to consider a request for rehearing.

R20-6-159. Rehearing or Review of an Order of the Director

- ~~A. Authority. This rule is adopted pursuant to A.R.S. § 20-142, 20-143 and 41-1010(B).~~
- ~~B. Purpose. The purpose of this rule is to implement A.R.S. §§ 41-1010(B) and 20-164(E), to delineate the procedure for a rehearing or review of an order of the Director, and to codify~~

existing proper procedure for a rehearing or review of an order of the Director.

- C. Effective date of an order of the Director. Except when good cause exists otherwise, no order of the Director shall become effective until after the expiration of ten days from the date it is signed by the Director.
- D. Procedure for a rehearing of an order of the Director
1. No appeal pursuant to A.R.S. § 20-166 shall lie except after the Director renders a final decision on the aggrieved party's petition for rehearing or review of an order of the Director. Upon written petition of a party to a hearing being filed with the Director within 30 days after any order made pursuant to a hearing has been mailed or delivered to the person entitled to receive such order, the Director may grant a rehearing or review of the matters involved in the hearing. Notice of such rehearing or review shall be given as provided in A.R.S. § 20-163. The Director shall either grant or deny a petition for rehearing or review within 30 days after such a petition is filed with the Director.
 2. An order of the Director may be vacated and a new hearing granted on petition of the aggrieved party for any of the following causes materially affecting his rights:
 - a. Irregularity in the proceedings of the Director or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
 - b. Misconduct of the prevailing party.
 - c. Accident or surprise which could not have been prevented by ordinary prudence.
 - d. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the hearing.
 - e. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the matter.
 - f. That the order, decision, or findings of fact is not justified by the evidence or is contrary to law.
- E. Scope. On a petition for a rehearing, the Director may take additional testimony, amend findings of fact and conclusions of law or make new findings of fact and conclusions of law or make new findings and conclusions, and direct that a new order be issued.
- F. Contents of petition; amendment; orders reviewable
1. The petition for a rehearing of an order of the Director shall be in writing, shall specify generally the grounds upon which the petition is based, and may be amended at any time before it is ruled upon by the Director.
 2. Upon the general ground that the Director erred in admitting or rejecting evidence, the Director shall review all rulings during the trial upon objections to evidence.
 3. Upon the general ground that the order or findings of fact is not justified by the evidence, the Director shall review the sufficiency of the evidence.
- G. Time for petition; notice of rehearing. The petition for a rehearing or review of an order of the Director shall be served not later than 30 days after an order made pursuant to a hearing or an order refusing a hearing has been mailed or delivered to the person entitled to receive such order. Notice of such rehearing shall be given as provided in A.R.S. § 20-163.

The Director shall render a decision on a petition for rehearing within 30 days after the rehearing and shall render a decision on a petition for review within 30 days after the Director signs an order granting the petition for review.

- H. Time for serving affidavits. When a petition for a rehearing or review is based upon affidavits they shall be served with the petition. The opposing party has ten days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the Director for good cause shown or by the parties by written stipulation. The Director may permit reply affidavits.
- I. On initiative by the Director. Not later than 30 days after an order made pursuant to a hearing or an order refusing a hearing has been mailed or delivered to the persons entitled to receive such order the Director of his own initiative may order a rehearing or review for any reason for which he might have granted a rehearing or review on petition of a party. After giving the parties notice and an opportunity to be heard on the matter, the Director may grant a petition for a rehearing, timely served, for a reason not stated in the petition. In either case, the Director shall specify in the order the grounds therefor.
- J. Questions to be considered in rehearing or review. A rehearing or review, if granted, shall be only a rehearing or review of the question or questions with respect to which the order of the Director is found erroneous, if separable.
- K. Stay of effective date. A petition for a rehearing or review of an order of the Director shall not stay the effectiveness of such order except as provided herein. A party desiring a stay shall make written application thereof to the Director. The Director may grant such a stay upon terms and conditions that are just and reasonable in the premises including, but not limited to, the conditions similar to those set forth in Rule 59 (j) (2), Arizona Rules of Civil Procedure.
- L. Number of rehearings. Not more than two rehearings shall be granted to either party in the same manner. Notwithstanding the foregoing, a party may appeal pursuant to A.R.S. § 20-166, after the Director renders a final decision on a petition for rehearing or review filed by the aggrieved party, without having filed a second petition for rehearing or review.
- M. Petition for review. A petition for review shall be treated as a petition to alter or amend an order of the Director and shall be served in the manner and within the time allowed for a petition for rehearing. No hearing shall be held in connection with a petition for review.
- N. Specifications of grounds of rehearing or review in order. No order granting a rehearing or review shall be made unless the order specifies with particularity the ground or grounds on which the rehearing or review is granted.
- O. Severability. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.
- P. Effective date. This rule shall become effective immediately upon a certified copy of the same being filed in the office of the Secretary of State of the State of Arizona.