

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Taxation

Regulation/Package Title: Replacement Tire Fee Rule

Rule Number(s): 5703-39-01

Date: July 13, 2016

Rule Type:

New

Amended

5-Year Review

Rescinded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.

Please include the key provisions of the regulation as well as any proposed amendments.

5703-39-01 Replacement tire fee returns and payments to be made electronically.

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This rule provides that tire fee payers, unless excused in writing by the Tax Commissioner, must file tire fee returns electronically on the Ohio Business Gateway and make payments electronically on the Ohio Business Gateway or by other approved electronic means.

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

R.C. 3734.902, 5703.05, 5703.059

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?

If yes, please briefly explain the source and substance of the federal requirement.

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)?

The Department provides this rule as part of its continuing efforts to streamline, simplify, and reduce costs of compliance for both the state and persons subject to the replacement tire fee. This rule also helps reduce the incidence of noncompliant filing and human error while also addressing the unreliability of traditional filing and payment means (U.S. mail, fax, paper checks, etc.).

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

The Department will measure the rule's success by the number of electronic returns received compared with the number of paper returns that require manual processing.

Development of the Regulation

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

If applicable, please include the date and medium by which the stakeholders were initially contacted.

On May 24, 2016, the Department posted the proposed rule on its website. On that day, the Department also sent a "Tax Alert" email to two subscriber groups ("excise tax – other" and "news releases") notifying subscribers of the new proposed rule and directing them where to view it and how to comment on it. The Tax Alert is attached as Exhibit 1.

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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 one comment regarding the proposed rule several weeks after the expiration of the comment period. The comment suggested that addressing the filing of the return and payment of fee as separate transactions is redundant.

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?

The Department considered whether to continue to receive paper returns and paper checks. The Department believes that it can process the returns and payments more efficiently using electronic means. Electronic filing and payment also decreases reporting errors, transmission times, processing times, and administrative costs for both the Department and the affected community. The Department believes that many tire fee payers already possess the means to comply with this rule. Those that do not have the ability to comply may apply to be excused from the regulation and, if approved, may file and pay in an alternative manner.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

N/A

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

A review of the Department's existing rules revealed that this rule does not duplicate an existing regulation.

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 rule for returns and payments submitted on or after January 1, 2017. The electronic platform for receiving tire fee returns and payments will be available in October, 2016. The Department plans to notify tire fee filers and representatives by sending out Tax Alert emails and posting an Information Release on its website. After the regulation becomes effective, the Department will assess whether additional guidance is needed and whether there is a need to contact regulated

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persons directly in order to advise on how to become compliant with the new regulation. Department staff will be notified of the new regulation, and new operating procedures will be provided.

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 all registered Replacement Tire Fee payers with active accounts. Currently, there are approximately 150 active Replacement Tire Fee accounts.

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

The requirement to file and pay electronically will require access to an internet connection and a computer or other device capable of navigating internet web pages.

There may be a minimal initial time commitment (generally, less than 15 minutes) to register an Ohio Business Gateway account for those who are not yet registered on that website. There are self-help tools available within the Ohio Business Gateway to instruct users on how to file and pay electronically. Additionally, users can call the Department and receive step-by-step instruction on how to file and pay electronically.

Because regulated persons may apply for and, for good cause shown, receive an excuse from this regulation, the Department believes that there will be minimal adverse impact on Tire Fee payers.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The Department has not conducted a study regarding the cost of compliance with a regulation that requires electronic filing and payment. However, the Department believes that electronic filing and payment, in most cases, reduces both the time and cost to comply for the majority of its filing base that are already subject to such a regulation. Again, those that anticipate an adverse impact as a result of compliance may petition to be excused from the regulation.

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

The minimal adverse impact on businesses, if any, is outweighed by the overall cost benefits and improved compliance that result from this rule. Electronic filing allows the Department to more efficiently process returns and payments. In addition, filers will now have access to an electronic history of their filings and payments.

Regulatory Flexibility

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

The rule, in accordance with R.C. 5703.059(D), provides that any regulated person may be excused from the requirement by demonstrating good cause for such excuse. This will be particularly beneficial for small businesses that do not have the equipment or internet access necessary for compliance.

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 – Neither the rule nor the authorizing statute contains a provision for the imposition of a fine, fee, or penalty for noncompliance.

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

The Department's website contains detailed tutorials on how to register for and use the Ohio Business Gateway. The Ohio Business Gateway contains self-help tools to assist users in navigating and completing transactions while on the site. The Department will also post an Information Release regarding this rule on its website. After implementation, the Department will assess whether there is a need to contact Tire Fee payers directly, either by phone or in writing, to assist with compliance issues. Finally, assistance is available via telephone by calling 1-855-466-3921.