

§ 208.3

§ 208.3 Payment by electronic funds transfer.

Subject to § 208.4, and notwithstanding any other provision of law, effective January 2, 1999, all Federal payments made by an agency shall be made by electronic funds transfer.

§ 208.4 Waivers.

Payment by electronic funds transfer is not required in the following cases:

(a) Where an individual determines, in his or her sole discretion, that payment by electronic funds transfer would impose a hardship due to a physical or mental disability or a geographic, language, or literacy barrier, or would impose a financial hardship. In addition, the requirement to receive payment by electronic funds transfer is automatically waived for all individuals who do not have an account with a financial institution and who are eligible to open an ETASM under § 208.5, until such date as the Secretary determines that the ETASM is available;

(b) Where the political, financial, or communications infrastructure in a foreign country does not support payment by electronic funds transfer;

(c) Where the payment is to a recipient within an area designated by the President or an authorized agency administrator as a disaster area. This waiver is limited to payments made within 120 days after the disaster is declared;

(d) Where either:

(1) A military operation is designated by the Secretary of Defense in which uniformed services undertake military actions against an enemy, or

(2) A call or order to, or retention on, active duty of members of the uniformed services is made during a war or national emergency declared by the President or Congress;

(e) Where a threat may be posed to national security, the life or physical safety of any individual may be endangered, or a law enforcement action may be compromised;

(f) Where the agency does not expect to make more than one payment to the same recipient within a one-year period, i.e., the payment is non-recurring, and the cost of making the payment via electronic funds transfer exceeds

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the cost of making the payment by check; and

(g) Where an agency's need for goods and services is of such unusual and compelling urgency that the Government would be seriously injured unless payment is made by a method other than electronic funds transfer; or, where there is only one source for goods or services and the Government would be seriously injured unless payment is made by a method other than electronic funds transfer.

§ 208.5 Availability of the ETASM.

An individual who receives a Federal benefit, wage, salary, or retirement payment shall be eligible to open an ETASM at any Federally-insured financial institution that offers ETAsSM. Any Federally-insured financial institution shall be eligible, but not required, to offer ETAsSM as Treasury's Financial Agent. A Federally-insured financial institution that elects to offer ETAsSM shall, upon entering into an ETASM Financial Agency Agreement with the Treasury, be designated as Treasury's Financial Agent for the offering of the account pursuant to Public Law 104-208. Treasury shall make publicly available required attributes for ETAsSM and any ETASM offered by a Federally-insured financial institution shall comply with such requirements. The offering of an ETASM shall constitute the provision of EBT services within the meaning of Public Law 104-208.

§ 208.6 General account requirements.

(a) All Federal payments made by electronic funds transfer, including those made through an ETASM, shall be deposited into an account at a financial institution. For all payments other than vendor payments, the account at the financial institution shall be in the name of the recipient, except as provided in paragraph (b) of this section.

(b)(1) Where an authorized payment agent has been selected, the Federal payment shall be deposited into an account titled in accordance with the regulations governing the authorized payment agent.

(2) Where a Federal payment is to be deposited into an investment account

established through a securities broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, or an investment account established through an investment company registered under the Investment Company Act of 1940 or its transfer agent, such payment may be deposited into an account designated by such broker or dealer, investment company, or transfer agent.

§ 208.7 Agency responsibilities.

(a) An agency shall disclose to each individual who is eligible to receive a Federal benefit, wage, salary, or retirement payment and who is not already receiving payment by electronic funds transfer the individual's rights and obligations under §§ 208.3, 208.4(a) and 208.5 of this part, unless payment by electronic funds transfer is not required pursuant to any provision of subsections (b) through (g) of § 208.4.

(1) Prior to the date the ETASM becomes available, the disclosure shall be in a form substantially similar to the model disclosure set forth in appendix A of this part.

(2) On and after the date the ETASM becomes available, the disclosure shall be in a form substantially similar to the model disclosure set forth in appendix B of this part.

(b) An agency shall put into place procedures that allow recipients to indicate that the recipient elects to have payment deposited by electronic funds transfer to an account held by the recipient at a financial institution. In addition, an agency may put into place procedures to request that individuals who are invoking a hardship waiver under § 208.4(a) indicate, in writing or orally, that a hardship waiver has been invoked. However, an agency may not delay or withhold payment if a recipient does not respond to such a request.

§ 208.8 Recipient responsibilities.

Each recipient who is required to receive payment by electronic funds transfer and who has an account with a financial institution must, within the time frame specified by the agency making the payment, designate a financial institution through which the payment may be made and provide the

agency with the information requested by the agency in order to effect payment by electronic funds transfer.

§ 208.9 Compliance.

(a) Treasury will monitor agencies' compliance with this part. Treasury may require agencies to provide information about their progress in converting payments to electronic funds transfer.

(b) If an agency fails to make payment by electronic funds transfer, as prescribed under this part, Treasury may assess a charge to the agency pursuant to 31 U.S.C. 3335.

§ 208.10 Reservation of rights.

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of this regulation in any case or class of cases.

APPENDIX A TO PART 208—MODEL DISCLOSURE FOR USE UNTIL ETASM BECOMES AVAILABLE

The Debt Collection Improvement Act of 1996 requires that most Federal payments be made by electronic funds transfer after January 2, 1999.

If you are currently receiving your Federal payment by check or you have just become eligible to begin receiving a Federal payment, you have several choices:

(1) Receive your payment by Direct Deposit through the financial institution of your choice.

The Government makes payments electronically through a program called Direct Deposit. Direct Deposit is a safe, convenient, and reliable way to receive your Federal payment through a financial institution. (A financial institution can be a bank, credit union, savings bank, or thrift.) Many financial institutions offer basic, low-cost accounts in addition to full-service checking or savings accounts.

(2) Do nothing now and wait for a basic, low-cost account, called an ETASM, to become available.

If you do not have an account with a financial institution, you do not need to do anything now. In the future a low-cost account, called an ETASM, will be available at many financial institutions. Like Direct Deposit, the ETASM (which stands for electronic transfer account) is a safe, convenient, and reliable way to receive your Federal payment through a financial institution. You are eligible to open this account, at a low monthly fee, if you receive a Federal benefit, wage, salary, or retirement payment. [Agency name] will contact you and let you know