

## Fiscal Service, Treasury

## § 208.4

(f) *ETAS<sup>SM</sup>* means the Treasury-designated electronic transfer account made available by a Federally-insured financial institution acting as a Financial Agent in accordance with §208.5 of this part.

(g) *Federal payment* means any payment made by an agency.

(1) The term includes, but is not limited to:

(i) Federal wage, salary, and retirement payments;

(ii) Vendor and expense reimbursement payments;

(iii) Benefit payments; and

(iv) Miscellaneous payments including, but not limited to: interagency payments; grants; loans; fees; principal, interest, and other payments related to U.S. marketable and non-marketable securities; overpayment reimbursements; and payments under Federal insurance or guarantee programs for loans.

(2) For purposes of this part only, the term “Federal payment” does not apply to payments under the Internal Revenue Code of 1986 (26 U.S.C.).

(h) *Federal/State EBT program* means any program that provides access to Federal benefit, wage, salary, and retirement payments and to State-administered benefits through a single delivery system and in which Treasury designates a Financial Agent to disburse the Federal payments.

(i) *Federally-insured financial institution* means any financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation under 12 U.S.C. Chapter 16 or, in the case of a credit union, the member accounts of which are insured by the National Credit Union Share Insurance Fund under 12 U.S.C. Chapter 14, Subchapter II.

(j) *Financial Agent* means a financial institution that has been designated by Treasury as a Financial Agent for the provision of EBT services under any provision of Federal law, including 12 U.S.C. 90, 265, 266, 1767, and 1789a, and 31 U.S.C. 3122 and 3303, as amended by the Omnibus Consolidated Appropriations Act, 1997, Section 664, Public Law 104-208.

(k) *Financial institution* means:

(1) Any insured bank as defined in section 3 of the Federal Deposit Insur-

ance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(2) Any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(3) Any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or any bank which is eligible to make application to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(4) Any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or any credit union which is eligible to make application to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(5) Any savings association as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) which is an insured depository institution (as defined in such Act) (12 U.S.C. 1811 et seq.) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.); and

(6) Any agency or branch of a foreign bank as defined in section 1(b) of the International Banking Act, as amended (12 U.S.C. 3101).

(1) *Individual* means a natural person.

(m) *Recipient* means an individual, corporation, or other public or private entity that is authorized to receive a Federal payment from an agency.

(n) *Secretary* means Secretary of the Treasury.

(o) *Treasury* means the United States Department of the Treasury.

### §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:

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(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 ETA<sup>SM</sup> under § 208.5, until such date as the Secretary determines that the ETA<sup>SM</sup> 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 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 pay-

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ment is made by a method other than electronic funds transfer.

### § 208.5 Availability of the ETA<sup>SM</sup>.

An individual who receives a Federal benefit, wage, salary, or retirement payment shall be eligible to open an ETA<sup>SM</sup> at any Federally-insured financial institution that offers ETAs<sup>SM</sup>. Any Federally-insured financial institution shall be eligible, but not required, to offer ETAs<sup>SM</sup> as Treasury's Financial Agent. A Federally-insured financial institution that elects to offer ETAs<sup>SM</sup> shall, upon entering into an ETA<sup>SM</sup> 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 ETAs<sup>SM</sup> and any ETA<sup>SM</sup> offered by a Federally-insured financial institution shall comply with such requirements. The offering of an ETA<sup>SM</sup> 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 ETA<sup>SM</sup>, 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