



DATE: May 17, 2011
TO: Chief Fiscal Officers
FROM: Greg Griffin – State Accounting Officer *gsg*
RE: IRS 3% Rule – IRS Issues Final Rule

As you may be aware, the IRS issued final rules for the TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005 (IRS 3% Rule) on May 9, 2011. The final rule is attached in the email accompanying this memo.

The majority of the rule has not changed but there have been two significant modifications that we wanted to highlight:

- Final regulations would provide an additional one-year extension from the revised statutory effective date of payments made after December 31, 2011. Under the final regulations, the IRS 3% Rule withholding and reporting requirements apply to payments made after December 31, 2012, subject to an exception for payments made under contracts existing on December 31, 2012, that are not materially modified.
- Final regulations would provide that “the exclusion for payments under existing contracts that had not been materially modified would terminate with payments after December 31, 2013. Thus, these proposed regulations would subject payments under all contracts to the IRS 3% Rule withholding after December 31, 2013, unless another exception applied.

Given current budget constraints and limited resources, this delay is a very welcome event and provides us more time to (1) communicate with PeopleSoft and determine whether they intend to provide a solution, (2) finalize design and implement a solution for this regulation, (3) clarify definitions and/or questions resulting from the final rule, and (4) perform necessary maintenance and process improvements with respect to vendor management. We still intend to continue with an information sharing group to discuss compliance with these final requirements. If you have not already done so, please contact Jon Coopman (jcoopman@sao.ga.gov) if your agency would like to participate in this group.

I want to thank you in advance for your time and assistance in this matter. If you have any questions, please contact Alan Skelton at askelton@sao.ga.gov or myself.