



July 15, 2020

Via Electronic Mail (regulations@dbo.ca.gov)

Commissioner of Business Oversight
Attn: Regulations Coordinator, Legal Division
1515 K Street, Suite 200
Sacramento, CA 95814

RE: Notice of Modifications to Proposed Regulations Under the Money Transmission Act (PRO 07-17 Agent of Payee Exemption)

Dear Commissioner Alvarez,

Stripe Payments Company (“**Stripe**”), a California-licensed money transmitter, submits this letter to the California Department of Business Oversight (the “**Department**”) in response to its notice of modifications to proposed regulations (the “**Proposed Rulemaking**”)¹ regarding the agent of payee exemption under the California Money Transmission Act (the “**Act**”).² As a provider of innovative payments solutions, Stripe strongly supports the Department’s efforts to clarify the scope of the agent of payee exemption and appreciates this opportunity to provide comments.

According to the Notice of Modifications, the Department has proposed changes to Section 80.126.30 of the Proposed Rulemaking to clarify that “services” include activities performed by charitable organizations that have received recognition of tax exemption under Section 501(c)(3) of the Internal Revenue Code (“**501(c)(3) Organizations**”). We agree that the charitable activities of 501(c)(3) Organizations should be considered “services” and that a 501(c)(3) Organization should in turn qualify as a “payee,” and appreciate the Department’s efforts to make this explicit. As Section 80.126.30 is currently drafted, however, it is unclear whether the Department intended to exclude from “services” the charitable activities of non-profit entities other than 501(c)(3) Organizations, such as those that have received recognition of tax exemption under other subsections of Section 501(c) of the Internal Revenue Code.³ As a result, the Department’s proposed modification would introduce additional uncertainty about which types of charitable-purpose payments qualify for the agent of payee exemption and, in turn, would likely require further interpretive guidance from the Department. We believe this outcome would conflict with

¹ Cal. Dep’t of Bus. Oversight, *Text of Proposed Regulations Under the Money Transmission Act, California Code of Regulations Title 10, Chapter 1, Subchapter 80* (Feb. 19, 2020).

² Cal. Dep’t of Bus. Oversight, *Notice of Modifications to Proposed Regulations Under the Money Transmission Act: PRO 07-17 Agent of Payee Exemption* (June 30, 2020) [hereinafter *Notice of Modifications*].

³ Section 501(c) of the Internal Revenue Code also exempts from certain federal income taxes various nonprofit organizations, such as civic leagues (501(c)(4)), labor organizations (501(c)(5)), business leagues and chambers of commerce (501(c)(6)), social or recreational clubs (501(c)(7)), and fraternal benefit societies (501(c)(8)). For purposes of the agent of payee exemption, there is no meaningful difference between the charitable activities engaged in by these nonprofit organizations and those engaged in by a 501(c)(3) Organization. As such, we believe that “services” should be defined broadly to include the charitable activities of various types of nonprofits.



the purpose of the Department’s Proposed Rulemaking: clarifying the application of the agent of payee exemption to avoid uncertainty and confusion.⁴

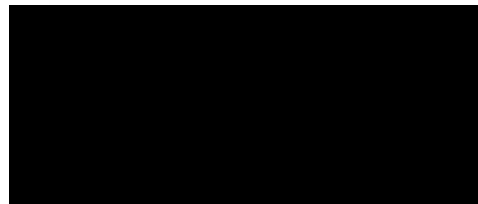
As such, we respectfully request that the Department consider the following amendment to Section 80.126.30 of the Proposed Rulemaking to clarify that “services” include charitable activities engaged in by nonprofit organizations other than 501(c)(3) Organizations:

“Services” include charitable activities, such as those engaged in by organizations that have received recognition of tax exemption under Section 501(c)(3) of the Internal Revenue Code.

In addition, we encourage the Department to include clarification to similar effect in its final statement of reasons.

We appreciate this opportunity to respond to the Department’s Notice of Modifications. Thank you for your consideration of our comments. If you have any questions, please contact me at leilaperkins@stripe.com.

Respectfully Submitted,



Leila T. Perkins
Regulatory Counsel

cc: Pamela Hernandez, Counsel, California Department of Business Oversight

⁴ Cal. Dep’t of Bus. Oversight, *Initial Statement of Reasons for Proposed Rulemaking to Adopt Regulations Under the Money Transmission Act* (Feb. 19, 2020) (“Due to the self-executing nature of the exemption, it is necessary to promulgate regulations to further clarify the application of this exemption to avoid uncertainty and confusion.”).