A method is employed to electronically escrow funds from cash sales of a merchant for deposit in an escrow for later use, such as for payment of sales taxes associated with merchant sales. A merchant employs a credit/debit card terminal (1) to request credit/debit card authorization (2) for sales. An electronic funds processor (EFP) forwards the requests to one or more credit/debit card issuers (2) for authorization. At the end of a closeout period, the merchant uses the terminal to report cash and credit/debit card sales having associated amounts to be withheld in escrow, and requests payment for transactions associated with the credit/debit sales. An escrow amount is determined by the EFP, and compared the requested payment amount. If the amount to be escrowed is less than the requested payment amount, this amount is subtracted from the requested payment amount and deposited by the EFP in an escrow account. In this manner, escrowing of funds associated with cash sales is automatically accomplished by a merchant request for payments owed for credit/debit card sales.
SELECTIVE ESCROW USING ELECTRONIC FUNDS TRANSFER

FIELD OF THE INVENTION

The present invention relates to a method for escrowing funds associated with sales made by a merchant. In particular, the present invention relates to a method for escrowing funds from cash sales sourced from debit/credit card payments made electronically to the merchant.

BACKGROUND OF THE INVENTION

Computers facilitate with high speed and accuracy a vast myriad of commercial transactions – including credit card transactions. Merchants, who collect from their customers not only the retail charges for purchased goods and services but in addition collect customer payments for sales taxes on those purchases, are responsible for periodically transmitting to the appropriate taxing authority the accumulated tax payments received, typically monthly or quarterly for State taxing authorities. At the end of each such period, some merchants find that they have spent or otherwise failed to segregate and retain sufficient funds to make the required tax payment to the taxing authority.

Accordingly, there has been a need for a method by which a merchant may allocate and escrow funds for periodic payment of customer sales taxes owed to a tax authority. Toward this end, it has been desired that the method enable collection, escrowing and payment to be performed by one or more third parties in order to enable the merchant’s direct participation to be essentially limited to a “passive” role.

In International Publication No. WO 03/048996 to Brown et al. (“Brown”), published on June 12, 2003, a method is disclosed by which a merchant may cause certain taxes owing to a tax
jurisdiction (for example, a state sales tax) to be impounded from monies due to the merchant as a result of customer credit and debit card transactions.

According to the method disclosed by Brown, a third-party escrow agent escrows a portion of funds in an escrow account which would otherwise be transferred, for example, by an electronic funds processor (EFP) to a merchant from a series of authorized credit and debit card-based transactions closed via the EFP by the merchant (for example, at the end of a day of sales). The process is controlled by the EFP, who determines and forwards the escrow portion to the escrow account.

As described in Brown, for example, a merchant is able to use a conventional credit/debit card terminal ("merchant terminal") for receiving authorization for payment from one of a plurality of credit or debit card issuers at the time of a purchase. Information entered at the terminal (for example, entry of the card number by swiping, and purchase amount and card expiration by keypad entry) is received by an EFP and forwarded to an issuer for authorization. Authorization is provided (for example, as indicated by an issuer-assigned confirmation number) and forwarded by the issuer via the EFP to the merchant for storage in the credit card terminal. At the end of a selected time period (e.g., at the end of each business day), the merchant proceeds to close the authorized purchase transactions, again using the credit card terminal, in order to make a demand for payment on the issuers.

Once transactions are closed, the EFP generally proceeds to credit a merchant account by electronic funds transfer with an amount equal to the value of the closed transactions, supported by payments from the issuers for these transactions. In some cases, the EFP will alternatively forward the closed transactions directly to an issuer so that the issuer may directly pay the merchant by electronic funds transfer. Receipts from closed credit-based purchase transactions in
either case are electronically deposited in, for example, an associated merchant bank account. The EFP and/or issuer may optionally debit an amount before deposit from the electronic funds transfer that represents associated service fees of the EFP and/or issuers.

As disclosed in Brown, this process may be augmented by adding a third party agent to intercept and escrow a portion of the funds to be deposited in the merchant bank account. For example, as many state jurisdictions require sales tax to be paid on purchases made within the state, monies may be escrowed from the electronic funds transfer and then targeted for payment to an associated state tax agency. Because sales tax owed can be readily determined from the number, nature and place of merchant sales, the EFP can be provided with instructions to readily and automatically facilitate the escrow process (for example, in the form of added or modified software for the electronic funds transfer process) so that the third party agent may effectively relieve the merchant from having to deal with holding funds aside and otherwise manage the process of making sales tax payments. Under the method described in Brown, funds for sales tax are directly deducted from an associated electronic funds transfer for escrow before the electronic funds are deposited in the merchant account.

Once funds are deposited in the escrow account, funds may be transferred at desired schedules to state tax authorities (or other owed parties) in order to meet the merchant’s tax payment obligations. In consideration for performing this service, the escrow agent may be reimbursed, for example, by retaining interest earned on funds in the account in between payment periods.

In Figure 1, a schematic diagram is provided to illustrate the process of Brown. The numbered elements of this process may be summarized as follows:

1. The customer making a purchase presents a credit or debit card at the point of sale.
2. The merchant uses the merchant terminal to request an authorization from the credit/debit card provider/issuer via the EFP (depicted in Figure 1 as a “merchant bank”).

3. The merchant bank issues a payment authorization and request message to the card issuer that includes details about the account and the transaction, including escrow account transaction signals. This message may also be forwarded to the escrow agent.

4. The credit/debit card issuer reviews the authorization request, makes a decision to approve or decline it, and replies to the EFP. The issuer may also forward the reply to the escrow agent.

5. The EFP forwards the issuer’s reply to the merchant. The response can also include information to decline, approve, and push escrow account information to the escrow agent.

Brown further discloses that taxable cash receipts may also be escrowed using the process. Taxable cash transactions accruing over a payment period are accounted for by a so-called “forced entry” at the merchant credit card terminal (using, for example, a password or PIN number for secure entry at the terminal). Once entered, the cash sales tax is debited, for example, from a merchant bank account for credit to the escrow account.

Brown proposes two approaches for cash transaction tax escrowing, both relying on the same method of debiting the sales tax. A merchant is provided with one of a swipe card or a personal identification number (PIN) for processing a cash transaction tax debit (CTTD) from the merchant’s terminal, for example at close out, in order to make the forced entry.
The forced entry provides information to the EFP indicating the total cash sales and how much sales tax to debit. Sales tax for cash sales is escrowed, for example, by debiting it from the merchant’s business checking account. For example, if sales tax is 6% and cash sales are $100, $6.00 is debited from the merchant’s checking account and credited to the tax escrow account along with the sales tax debited from credit card sales. The merchant retains the cash from the cash sales, and deposits it into his business checking account.

While escrowing from cash sales may be accomplished in this manner, the process may be somewhat awkward for merchants, and for example require diligence by the merchant to maintain a merchant account that always has sufficient funds for debiting the cash sales escrow.

**SUMMARY OF THE INVENTION**

An improved method is disclosed for impounding escrow funds by an electronic funds processor (EFP) associated with cash sales transactions of a merchant during a close-out period. The method includes the steps determining a first sales amount associated with one or more non-credit/debit card transactions of the merchant during the closeout period, determining a second sales amount associated with one or more credit/debit card transactions of the merchant during the closeout period, determining an escrow amount based on the first sales amount, determining whether the second sales amount exceeds than the escrow amount, and when the second sales amount exceeds the escrow amount, crediting an escrow account with the escrow amount, and crediting a merchant account with an amount equal to the difference between the second sales amount and the escrow amount.

In this manner, for example, a merchant may provide for ongoing and automatic collection of funds by the EFP and an escrow agent owing for sales taxes associated with the
merchant’s cash sales. Similarly, the merchant may provide for periodic, automatic payment of
taxes to a tax authority from the collected funds. In this manner, the merchant’s direct role in
such collections and payments effectively becomes passive.

The method also contemplates other applications in which a merchant desires or is
otherwise required to escrow funds from sales transactions (for example, by local, state and
federal tax authorities, judicial authorities, and payees who have received legal judgments
against a merchant). The method contemplates further impounding merchant escrow funds for
paying back payroll taxes or back real estate taxes, and impounding merchant escrow funds for
effecting a merchant savings account.

BRIEF DESCRIPTION OF THE DRAWINGS

A more complete understanding of the invention may be obtained by reading the
following description of specific illustrative embodiments of the invention in conjunction with
the appended drawing in which:

Figure 1 provides a first schematic diagram illustrating elements of the inventive method;
and

Figures 2A – 2C illustrate sample escrow transactions involving non-credit/debit card
sales.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

The following detailed description includes a description of the best mode or modes of
the invention presently contemplated. Such description is not intended to be understood in a
limiting sense, but to be an example of the invention presented solely for illustration thereof, and
by reference to which in connection with the following description and the accompanying
6/17
drawing one skilled in the art may be advised of the advantages and construction of the invention.

An improved method is disclosed for automatically escrowing merchant funds associated with cash sales. For the purposes of this disclosure, "cash sales" are defined to constitute any of a variety of conventional vehicles used to facilitate sales transactions that are not considered to include credit or debit cards. For example, by this definition, cash sales are deemed to include sale made using one or more of personal checks, money orders, bank checks, travelers checks, gift checks, gift certificates, and cash to consummate the sales.

In accordance with the improved method, a merchant terminal is configured to collect and report three sales transaction totals for each closeout period: one for credit card sales, one for cash sales and one for non taxable sales. This may be accomplished, for example, by suitable programming of the terminal (conventional credit/debit card terminals, for example, are programmed to ask operators to report whether a transaction is taxable or non taxable). For each tax jurisdiction, the merchant's terminal is programmed to add the credit card and cash sales, subtract the non taxable sales, and calculate the percentage of tax to be escrowed based on the tax jurisdiction. The percentage of tax from the combined credit card and cash sales is then electronically debited from payments authorized for credit card sales of the closeout period, and deposited into the tax escrow account. The merchant retains all funds received from cash sales (and for example, may deposit these in the merchant bank account).

Three examples illustrating escrow transactions at the merchant terminal are illustrated in Figures 2A – 2C. In Figure 2A, all reported sales transaction in the closeout period are credit sales, each owing a 6% tax in a tax jurisdiction. Total sales tax escrow is computer based on the
tax rate and total credit card sales, a net credit card deposit (less escrowed tax funds) is deposited in the merchant account.

In Figure 2B, total credit and total cash sales are each reported for a closeout period, each owing a 6% tax in a tax jurisdiction. Credit and cash sales are totaled, and a total sales tax escrow is computed based on the tax rate and on total sales. A net credit card deposit (less escrowed tax funds representing tax owed both on credit and cash sales) is deposited in the merchant account.

In Figure 2C, both taxable and non-taxable credit and cash sales totals are reported. For example, state laws may characterize certain sales as non-taxable (for example, clothes purchases in New Jersey are generally non-taxable). Each taxable sale owes a 6% tax in a tax jurisdiction. Taxable and non-taxable totals are prepared for both total credit and total cash sales during the closeout period, and a total sales tax escrow is computed based on the tax rate and on total taxable credit and cash sales. For example, all cash and credit sales may be totaled, and non-taxable cash sales and non-taxable credit sales may be subtracted from total cash and credit sales to produce total taxable sales. The tax rate is then applied to total taxable sales to determine the tax escrow. A net credit card deposit (total credit card sales less tax escrow and any other applicable service fees) is deposited in the merchant account. All cash collected remains in hand with the merchant.

In addition to escrowing funds for sale tax owed on cash sales, the above-disclosed method may be extended, for example, to sales made via mail/phone/fax orders and Internet sales.

In order to extend the method accordingly, mail/phone/fax sales and Internet sales are identified with tax codes for taxable and non-taxable sales. Currently, these sales are only
taxable if you are ordering from the same state in which the merchant is based, or alternatively if
the merchant you are ordering from has a retail outlet in your state. The associated rules tend to
be reasonably straight forward, and accordingly easily incorporated for example in existing
software that the merchant may be using to track orders and delivery for such sales. According to
the present method, such merchant sales information is reported to the EFP and escrow agent via
an interface from the tracking software to the merchant terminal, or alternatively by other
automated communications means (for example, e-commerce means). The merchant terminal
interface provides the advantage of enabling the merchant to close out these transactions
coincidently with closing other transactions recorded at the terminal.

As sales tax collected from mail/phone/fax order and Internet sales is generally based on
the tax jurisdiction in which the sale is initiated, a merchant must collect applicable sales tax
based on the tax jurisdiction of where the sale is initiated, and file that tax in accordance with
that jurisdiction's tax laws. Accordingly, each taxable sale would additionally identify the
associated tax jurisdiction. Once again, the jurisdiction may be easily determined from a
customer's order information, and means for determining the jurisdiction thereby easily
incorporated in the merchant's existing order and delivery tracking software.

As a result, such information may be collected and provided to the escrow agent so that
sales tax owed from mail/phone/fax sales and Internet sales within a closeout period is escrowed
out of credit sales receipts closed during the period, and sales tax filings and payments for
mail/phone/fax and Internet order sales may automatically be filed on behalf of the merchant by
the escrow agent on a schedule and as required by each of multiple jurisdictions. In this manner,
sales tax may be escrowed for orders made using a personal check, money order, bank check,
travelers check, gift check, gift certificate, cash or any other financial instrument used as cash.
Future tax liabilities (for example, for Internet sales initiated outside of a merchant jurisdiction) can be easily accommodated by the method, and reflected in modifications to the merchant's order and delivery tracking software.

The present method may also be used for collecting other taxes, liens, garnishments and levies that may be imposed on a merchant by state and/or federal government agencies. For example, Brown describes a process for adjusting the rate of sales tax collection in order to address back taxes. In this manner, a merchant may for example reimburse a state sales tax authority for back taxes owed at a manageable rate, until the back taxes are repaid. For example, in a case where taxable sales receipts are taxed at a rate of 6%, the escrow rate may be adjusted upward (for example, to 16%) in order to aggressively collect against back sales tax owing. The escrow process may also be used for collecting monies owed from legal judgments.

It is contemplated that the present invention may be applied to virtually any application in which a merchant desires or is otherwise required to effect a withholding of funds collected from credit-based sales transactions. For example, in addition to the applications previously disclosed, it is contemplated that the method could be applied to generate merchant escrow funds for paying back payroll taxes or back real estate taxes, or for effecting a merchant savings account (in the latter case, the payee of funds escrowed would be the merchant).

It is also contemplated that the present method may be used for the purpose of creating multiple escrow funds simultaneously. For example, the merchant could specify more than one escrow rate each to be applied to one or more classes of eligible sales transactions. Preferably, the merchant terminal would be programmed for entry of such rates, and for reporting of the rates and associated merchant and transaction information to the EFP and escrow agent. The reported information would preferably and as applicable identify authorities and/or parties to
whom associated escrowed funds would be disbursed at specified rates and schedules, and include conventional secure means for the merchant to authorize these transactions to begin and/or to end (for example, by digital signature). Optionally, for example for payments associated with legal judgments, such secure authorization means may be extended to other parties.

An important function of the present invention is to provide information about escrowed funds to the merchant, and to each tax jurisdiction in which sales tax receipts are being filed. As described in Brown, escrow account information can be provided at the merchant terminal at the time of a receipts closing in a form, for example, similar to the sales draft created by the terminal in response to each sales transaction. In addition, the present method contemplates escrow account management software periodically used by the escrow agent, for example, to report a monthly summary to the merchant, and/or to prepare a filing return for filing tax receipts in a tax jurisdiction. If one or more types of funds are being escrowed, the monthly summary to the merchant may for example report the following information for each type: a) escrow funds collected over a current closeout period, and cumulatively for a designated number of prior closeout periods, b) escrow funds paid for a current payment period and cumulatively for a designated number of prior payment periods, and c) balance of funds owed (if the fund type relates, for example, to back taxes or other obligations not relieved in a single payment period).

The escrow agent may for example provide a secure web site for presenting escrow account information to the merchant and/or other payees (for example, the tax authorities). Alternatively, the escrow agent may physically or electronically transmit (for example, by e-mail, facsimile or other e-commerce means) escrow account information on a periodic basis directly to the merchant and/or payee.
The foregoing describes the invention in terms of embodiments foreseen by the inventor for which an enabling description was available, notwithstanding that insubstantial modifications of the invention, not presently foreseen, may nonetheless represent equivalents thereto.
IN THE CLAIMS:

1. A method for impounding escrow funds by an electronic funds processor (EFP) from credit/debit card transactions of a merchant associated with a close-out period, the method comprising the steps of:
   - determining a first sales amount associated with one or more non-credit/debit card transactions of the merchant during the closeout period;
   - determining a second sales amount associated with one or more credit/debit card transactions of the merchant during the closeout period;
   - determining an escrow amount based on the first sales amount;
   - determining whether the second sales amount exceeds the escrow amount; and
   - when the second sales amount exceeds the escrow amount, crediting an escrow account with the escrow amount, and
   - crediting a merchant account with an amount equal to the difference between the second sales amount and the escrow amount.

2. The method of claim 1, wherein the one or more non-credit/debit card transactions are cash transactions.

3. The method of claim 1, wherein one or more non-credit/debit card transactions are each facilitated using a payment instrument selected from the group consisting of personal checks, money orders, bank checks, travelers checks, gift checks, gift certificates, and cash.
4. The method of claim 1, comprising the additional steps of:

determining a payable amount to be paid from the escrow account; and

debiting the payable amount from the escrow account.

5. A method for impounding escrow funds by an electronic funds processor (EFP) from credit/debit card transactions of a merchant associated with a close-out period, the method comprising the steps of:

determining a first sales amount associated with one or more taxable non-credit/debit card transactions of the merchant during the closeout period;

determining a second sales amount associated with one or more taxable credit/debit card transactions of the merchant during the closeout period;

determining an escrow amount based on the sum of the first and second sales amounts;

determining whether a third sales amount exceeds the escrow amount; and

when the third sales amount exceeds the escrow amount,

crediting an escrow account with the escrow amount, and

crediting a merchant account with an amount equal to the difference between the third sales amount and the escrow amount.

6. The method of claim 5, wherein the third sales amount is equal to the second sales amount.
7. The method of claim 5, wherein the third sales amount is equal to the sum of the second sales amount and a fourth sales amount associated with one or more non-taxable credit/debit card transactions of the merchant associated with the closeout period.

8. The method of claim 5, comprising the additional steps of:
   determining a payable amount to be paid from the escrow account; and
   debiting the payable amount from the escrow account.

9. The method of claim 8, wherein the payable amount is debited for payment to one or more of a local tax authority, a state tax authority, a federal tax authority, a judicial authority, a recipient of a legal judgment and a merchant.

10. The method of claim 5, wherein the escrow amount is determined as a predetermined percentage of one or more of the first and second sales amounts.

11. The method of claim 8, wherein the escrow amount is determined as a sum of one or more predetermined percentages of one or more of the first and second sales amounts.

12. The method of claim 10, wherein the predetermined percentage is determined from a merchant tax rate.

13. The method of claim 12, wherein the predetermined percentage is increased over the merchant tax rate in order to facilitate payment of back taxes.
14. The method of claim 10, wherein the predetermined percentage is determined as an estimate for generating escrow funds sufficient to pay a predetermined sum from the one or more of the first and second sales amounts over a predetermined number of sales periods.
EXAMPLE 1 – credit card closeout based on 6% sales tax

Credit Card Sales $1000.00
Total Sales Tax Escrowed $ 60.00
Net Credit Card Deposit $ 940.00

FIG. 2A

EXAMPLE 2 – credit card and cash closeout based on 6%

Credit Card Sales $1000.00
Cash Sales $ 500.00
Total Sales $1500.00
Total Sales Tax Escrowed $ 90.00
Net Credit Card Deposit $910.00

FIG 2B

EXAMPLE 3 – credit card, cash and non-taxable sales based on 6%

Taxable Credit Card Sales $1000.00
Taxable Cash Sales $ 500.00
Non-Taxable Sales
  Credit $ 200.00
  Cash $ 300.00
Total Sales $2000.00
Total Taxable Sales $1500.00
Tax Escrow $ 90.00

Net Credit Card Deposit $1110.00
(credit card sales plus non-taxable credit card sales, minus tax escrow)

Net cash in hand $ 800.00
(taxable cash sales plus non-taxable cash sale)

FIG. 2C