

The Nation's Leader in Payroll Education



An APA Lobbying Update 2018 Ohio Conference for Payroll Professionals



Agenda



- ◆ Tax Cuts and Jobs Act
- ◆ E-Filing Aggregation
- ◆ IRS Tax Administration
- ◆ Health Care Appraisals



Agenda



- ◆ SSA 'No-Match' Notices
- ◆ Payroll Cards
- ◆ Mobile Workforce Bill
- ◆ Child Support – Lump Sums



APA's Mission



- ◆ Representing payroll professionals before federal, state, and local governments.
- ◆ Educating government and community decision-makers about the payroll industry.
- ◆ Minimizing the burden on payroll



APA's Mission



- ◆ APA uses leverage
- ◆ Total IRS collections FY 2017 - \$3.42T
 - Through payroll – \$2.39T (70%)
- ◆ Child support collections FY 2017 - \$32.4B
 - From employers – \$24.4B (75%)



Tax Cuts and Jobs Act



- ◆ Nearly doubles standard deduction to \$12K (S or MFS), \$18K (HOH), \$24 (MFJ)
- ◆ Doubles child tax credit to \$2K
- ◆ Adds nonchild dependent tax credit - \$500
- ◆ Limits SALT to \$10K
- ◆ Limits interest deduction for high-end mortgages
- ◆ Changes COLAs to Chained CPI-U

Tax Cuts and Jobs Act



- ◆ Eliminates personal exemptions
- ◆ Makes moving expense reimbursements taxable other than military moves
- ◆ Eliminates bicycle commuting reimbursement as a QTF
- ◆ Employer can't deduct cost of QTFs
- ◆ Some employer F&B deductions limited
- ◆ Adds family and medical leave employer tax credit for paid leave

Tax Cuts and Jobs Act



IRS Implementation

- ◆ 140 integrated software systems at IRS
- ◆ 465 forms and guidance documents
- ◆ Tax administration and funding >\$320M
- ◆ Tax Reform Implementation Office (TRIO)

Tax Cuts and Jobs Act



APA's TCJA Efforts

- ◆ Letter to Congressional Conference Committee warning of consequences
- ◆ Letter to IRS requesting:
 - Transitional relief
 - Time to implement new withholding tables
 - Guidance on need for new W-4 for all EEs
 - Certainty on supplemental withholding rate

Tax Cuts and Jobs Act



◆ Benefits spared from the chopping block before TCJA was passed

- Adoption assistance programs
- Dependent care assistance programs
- Educational assistance plans
- Employee achievement awards
- Employer-provided housing and meals

Tax Cuts and Jobs Act



TCJA Effects on Payroll

- ◆ **2018 withholding tables out Jan. 11, need to be in effect by Feb. 15**
- ◆ **Optional supplemental w/h rate – 22%**
- ◆ **Some inflation adjustments recalculated for 2018**
 - ◆ HSA contribution max from \$6,900 to \$6,850
 - ◆ FEI exclusion from \$104,100 to \$103,900

Tax Cuts and Jobs Act



TCJA Effects on Payroll

- ◆ **Form W-4 for 2018**
 - Not released until Feb. 28
 - Exempt claim renewal extended to Feb. 28, can use 2017 W-4
 - Adds allowances for higher child tax credit, new nonchild dependent credit
 - Allowances for employee, not spouse and kids

Tax Cuts and Jobs Act



TCJA Effects on Payroll

◆ Form W-4 for 2018

◆ Tell employees to check w/h if:

- 2-income families
- 2 or more jobs
- With itemized deductions
- High income and complex tax returns

Tax Cuts and Jobs Act



TCJA Effects on Payroll

◆ Form W-4 for 2018 – APA's role

- Roundtable discussions with IRS in January
- Don't make drastic changes for this year
- Need a quick turn-around
- Refigure allowance formula for child credits
- Configure allowance formula for new credit

◆ Make sure draft of 2019 W-4 is out early


Tax Cuts and Jobs Act



TCJA Effects on Payroll


◆ Early release draft 2019 Form W-4 June 8

- Major changes in how withholding is addressed
- EE gets 2 or 3 allowances based on filing status – 2 if S or MFS; 3 if HOH or MFJ
- Adjustments are added to or subtracted from taxable wages before w/h is calculated for:
 - Other income not withheld on – interest, self-employment
 - Income from other jobs and/or spouse's job
 - Itemized deductions above standard deduction

Tax Cuts and Jobs Act 


TCJA Effects on Payroll

- ◆ **Early release draft 2019 Form W-4 June 8**
 - Adjustments made after w/h is calculated
 - Subtract tax credits – child tax credit, new nonchild dependent tax credit
 - Subtract amounts w/h from other jobs, spouse's job
 - Add extra withholding requested by EE
- ◆ **IRS will not require all EEs to complete and submit a 2019 W-4; prior forms submitted before 1/1/19 can be used**

Tax Cuts and Jobs Act 

TCJA Effects on Payroll

- ◆ **Early release draft 2019 Form W-4 June 8**
- ◆ **APA comments in early July:**
 - EEs may be reluctant to supply personal/family income information and other jobs
 - IRS recommends EEs use w/h calculator; APA offers line-by-line critique of calculator
 - APA offers recommendations to make instructions clearer for EEs and Ers
- ◆ **Final draft by late Aug.; final form in Nov.**

Tax Cuts and Jobs Act 

TCJA Effects on Payroll

- ◆ **Paycheck check-up campaign**
- ◆ **IRS encouraging taxpayers to review their withholding**
- ◆ **APA's efforts:**
 - Worked with IRS on messaging
 - Offered recommendations on IRS withholding calculator

Tax Cuts and Jobs Act

Transition Relief

◆ Health Savings Accounts

- Family plan contribution max for 2018 reduced from \$6,900 to \$6,850
- Some EEs had already contributed the max

◆ APA requests relief

- ◆ **April 26: IRS grants relief, restores \$6,900 max, adds procedures for ERs**

E-Filing Aggregation

◆ IRS proposes basing e-filing requirement on ≥ 250 total information returns, not on each type of return

- Add up W-2s, 1095-Cs, 1099-MISC, 1099-R, 1042-S, etc. – e-filing required if ≥ 250
- If ER must use e-file, all corrected returns must be e-filed, no matter how many
- Proposed to be effective for 2018 information returns filed in 2019, including corrections

E-Filing Aggregation

◆ APA comments

- Pointed out that this will expand requirement to new departments inside companies
- Could require outsourcing or new systems
- Increased outreach needed, both in the media and to paper filers who may meet threshold
- Delay finalizing until 2019 forms filed in 2020
- IRS needs 1099 direct free-file system like SSA
- Improve authentication process and “help”

IRS Tax Administration



◆ H.R. 5444, Consolidated IRS reform legislation, passed the House on 4/19/18

- Modifies titles of several IRS officials
- Eliminates IRS Oversight Board
- Requires IRS to submit a reorganization plan
- Requires IRS to submit customer service strategy

IRS Tax Administration



◆ H.R. 5444, Consolidated IRS reform legislation, passed the House on 4/19/18

- Creates independent Office of Appeals
- Revises enforcement procedures:
 - Referrals to private debt collectors
 - Contacting third parties

IRS Tax Administration



◆ APA recommendations:

- Agencywide technology plan
- Lower threshold for electronic filing
- One point of contact – identity theft victims
- Internet platform for Forms 1099



IRS Tax Administration



◆ APA recommendations:

- Uniform standard for electronic signatures
- Enhance online accounts and portals
- Funding for TCJA changes
(Budget: IRS requested \$397M, received \$320M)

Health Care Proposals



◆ Health Savings Account (HSA) Expansion

- H.R. 6311 would allow Medicare eligible seniors to contribute to HSAs and increase FSA balance carryforward amount – passed House 7/25/18
- H.R. 6305 would allow HSA contributions if spouse has health FSA
- H.R. 6306 would increase contribution maximums, allow both spouses to contribute to same HSA if both have family coverage under an HDHP, and make distributions nontaxable during 60-day period after HDHP coverage if HSA is established in that time

Health Care Proposals



◆ Affordable Care Act changes

- H.R. 6199 would allow payments for OTC drugs from HSAs, MSAs, health FSAs, and HRAs – passed the House 7/25/18
- H.R. 4616 would delay employer health insurance mandate retroactively from 2015 to 2019
- H.R. 6312 would expand medical care definition to include costs of certain physical fitness activities
- S. 2802 would increase FSA pre-tax contribution limit to \$5,000 plus \$500 for each dependent over 2 and allow unlimited balance to be carried over

SSA 'No-Match' Notices



◆ SSA starting to send out Form W-2 name/SSN "no-match" notices again

- Official name is Educational Correspondence (EDCOR) notices or Employer Correction Request Notices
- Summer 2018 –first notices since 2007
 - Initial notices to ERs with ≥1 mismatch on 2017 W-2s
 - PSP will get notice if any client has 2017 mismatches
 - Notices will not have number of mismatches or EE info
 - Provide information about SSA's services and W-2 filing tips
 - Notices will ask for corrections before 2018 W-2 filing

SSA 'No-Match' Notices



◆ SSA starting to send out Form W-2 name/SSN "no-match" notices again

- Summer 2018
 - Sample PSP notice at <https://www.ssa.gov/employer/notices/ThirdPartyLetter.pdf>
 - Sample employer notice at <https://www.ssa.gov/employer/notices/EDCOR.pdf>

SSA 'No-Match' Notices



◆ SSA starting to send out Form W-2 name/SSN "no-match" notices again

- Spring 2019
 - Correction request notices sent to ERs that timely e-filed but had ≥1 name/SSN mismatch
 - Sample correction request notice at <https://www.ssa.gov/employer/notices/EmployerCorrectionRequest.pdf>
- September 2019
 - Correction request notices sent to ERs that filed W-2s late or on paper that had ≥1 name/SSN mismatch

SSA 'No-Match' Notices

◆ **SSA starting to send out Form W-2 name/SSN "no-match" notices again**

- 2019 notices (only to ER, not EE or PSP)
 - Will say corrections are needed to allocate EE's earnings
 - Notice does not address EE's work authorization or immigration status
 - Tell ER not to take adverse action based on mismatch
 - Tell ER how many mismatches
 - Tell ER to use 'Employer Report Status' within Business Services Online to view mismatched names and SSNs
 - Tell ER to send SSA corrections on W-2c within 60 days

Payroll Cards

◆ **APA's white paper – "Regulation of Payroll Card Accounts: A Guide for Policymakers"**

- Find it on APA's Visa Payroll Card Portal on the APA website at <http://paycard.americanpayroll.org/> in the Paycard News section
- Contains model language for lawmakers to use in sensible paycard legislation
- Comprehensive source of information on paycards provided by GRTF's Paycards Subcommittee

Payroll Cards

◆ **Kentucky**

- Legal tender includes direct deposit and payroll cards
- Signed into law in March 2017

◆ **Massachusetts (S. 2447) in Senate W&M committee**

- Unnecessary rules for payroll card use (like NY)
- Free banking services for payroll card users only
- 7-day cooling off period
- APA comments unfavorable

Payroll Cards



◆ Massachusetts (H.R. 4218) in House W&M Committee

- Full and free access to wages
- Comply with Regulation E
- Disclose fees to employees
- Free access to account information
- APA comments positive

Payroll Cards



◆ New Hampshire (S.B. 84)

- Original bill supported by APA
- Amendments remove payroll card provisions, only covers WC payments by direct deposit
- House record and misperceptions
- APA comments

Payroll Cards



◆ New York – OMG!

- Final DOL regs very restrictive; APA commented twice, met with DOL
- In Global Cash Card case, Industrial Board of Appeals said DOL overstepped its authority
- State Supreme Court said IBA acted arbitrarily by vacating all wage payment regs
- ADP filed notice of appeal on July 6
- Regs not being enforced at this point

Payroll Cards



◆ New York – OMG!

- While this is going on, bills introduced in Senate and Assembly – S5208A/A6771A
 - Payroll cards are an option for paying wages
 - One free withdrawal per day up to full wages at in-network ATM
 - Free checking account balances



Payroll Cards



◆ New York – OMG!

- While this is going on, bills introduced in Senate and Assembly – S5208A/A6771A
 - One free replacement card per year
 - Notices in language normally used by employer
 - Wages must be insured
 - No compensation for employers from issuer



Payroll Cards



◆ New York – OMG!

- While this is going on, bills introduced in Senate and Assembly – A243
- Advanced written consent of employee
- Written consent not condition of employment
- Deposit by employer same as if deposit by employee
- Free withdrawal of full wages once per pay period
- Employee can change mind on wage payment options

Mobile Workforce Bill (HR 2315)



- ◆ 30-day safe harbor from nonresident taxation
- ◆ Retroactive to day 1
- ◆ Athletes & public figures not protected
- ◆ Preserves reciprocity
- ◆ Approved by House, now in Senate



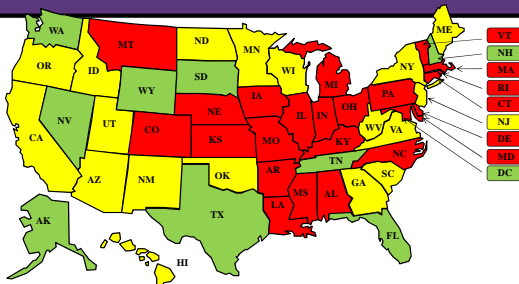
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Mobile Workforce Bill (HR 2315)



- ◆ **APA provided comments to House subcommittee earlier**
 - Most companies don't comply with nonresident rules because of complexity
 - Lack of resources – software, time, money
 - Others ignorant of obligations
- ◆ **Overall, states will collect only 0.01% less**
- ◆ **NY would lose the most (\$44.5M or more)**

Mobile Workforce Bill (HR 2315)



■ Nonresident employees subject to tax withholding on *first day of travel*
■ Nonresident employees subject to withholding after reaching threshold
■ No general personal income tax (or, in the case of DC, no tax on nonresidents)

Sen. Charles Schumer (D-NY)



Mobile Workforce Bill (HR 2315)

- ◆ Write a letter to your U.S. senators
- ◆ www.mobileworkforcecoalition.org/contact-congress/#/
- ◆ Click "Take Action" button
- ◆ Follow steps
- ◆ Click "Send"



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Child Support – Lump Sums

◆ **Defining the problem**

- Consumer Credit Protection Act
- Definition of earnings
- Garnishment limits
- Burden on payroll



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Child Support – Lump Sums



DOL Fact Sheet #30:

“Earnings may include payments received in lump sum.”



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Child Support – Lump Sums



◆ DOL opinion letter to APA in April 2018

◆ 3 pronged determination:

- Lump-sum payments fully covered
- Lump-sum payments partially covered
- Lump-sum payments not covered



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Child Support – Lump Sums



◆ Lump sums fully covered

- Discretionary and nondiscretionary bonuses
- Commissions
- Performance bonuses
- Merit increases
- Safety awards
- Signing bonuses
- Relocation incentive payments
- Termination and severance pay
- Holiday pay

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Child Support – Lump Sums



◆ Lump sums partially covered

- Workers' comp payments for wage replacement, not medical expenses
- Insurance settlements for back or front pay, not for compensatory or punitive damages

◆ Lump sums not covered

- Buybacks or payment of company shares, because they are payments as a way of returning money to shareholders, not for personal services

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Child Support – Lump Sums



◆ Issues still remain

◆ OCSE/APA formed Lump-Sum Collaborative Workgroup with state CSE officials

- When should ER inform state that a lump-sum payment will be made
- Whether state-ER communications can be made electronically
- Reasonable time for state to determine if lump-sum payment is subject to withholding

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A Lobbying Update From APA



Thank You
Please complete your
evaluations
