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## APA Members Provide Feedback to SSA on Business Services Online Enhancements

APA members from the Washington Metropolitan Area and Baltimore chapters recently tested several enhancements to the Social Security Administration's Business Services Online (BSO). According to the SSA, "We fully realize how the success of our online systems depends on individuals and organizations like yours that volunteer to help us build efficient and easy-to-use, customer-centric systems." The SSA hopes to use our suggestions.

The functions tested included:

- Uploading files of W-2 data (wage reports).
- Checking the current status of submitted wage reports.
- Dealing with applications for filing extensions and resubmissions that sometimes are necessary for these files.
- Creating and submitting Forms W-2/W-3 online.
- Creating and submitting Forms W-2c/W-3c online.

Overall, the screens were much less busy than in the current version, and SSA is trying to make each screen not much longer than what will fit in one "screen-worth" of an average PC monitor. Suggestions from APA members included:

- Better organization of certain pages to make it easier to find links to perform common tasks.
- SSA should send an e-mail to an employer if it has created and stored draft W-2 or W-2c forms, before BSO deletes the files.
- Since company-level information is provided before data for individual forms is entered, W-2 Online should not allow entry in, nor should the cursor even stop at, boxes

such as "For Official Use," "EIN," and "Employer Name."

- If the box "Corrected SSN and/or name" is not checked, W-2c Online should not allow entry in the boxes for "previously reported" name or SSN.

- W-2 Online should allow for a few pennies of tolerance in the relationship of Social Security and Medicare taxes to wages. Currently, if the taxes are not exactly 6.2% or 1.45%, respectively, the user gets an error message and has to adjust the entry, perhaps by as little as one cent.

- Before any W-2 information is entered, W-2 Online should provide an optional spot for entering a state ID number that will self-populate in all the individual W-2s but that can be changed by the employer on an individual W-2, if necessary. Many employers using W-2 Online are in one state only, and this will save them having to enter that same information over and over again – entries that are made quickly and are therefore prone to error.

- In Boxes 15-20 (state and local information), W-2 Online's tab function should move the cursor across one line (one state or locality) and then across the next line (the next state or locality). Currently, the cursor goes back and forth between the two lines for state and local information.

- There should be a new organization of the final pdf file of the W-2s and W-3, including, for example, separation of the forms employers must print and deliver to employees from those it must print and send to state and local government agencies. ■

## Telecommuter Tax Fairness Act Introduced in Congress for Fourth Time

On May 21, 2009, the Telecommuter Tax Fairness Act (H.R. 2600) was reintroduced by U.S. Representative James Himes (D-Conn.). This legislation would prohibit states from applying the convenience of the employer test, which often subjects interstate telecommuters to double taxation. Instead, taxation would be based on physical presence. The bill was introduced in the last three Congresses (in August 2004, May 2005, and March 2007), but failed to pass each time.

### Convenience of the employer test

While Nebraska, New York, and Pennsylvania all use the convenience of the employer test, New York has been criticized for its aggressive enforcement. Under the test as applied in New York, nonresident employees of New York-based companies who telecommute are required to pay New York tax on all income earned, unless they can prove that the work is done out-of-state for the employer's necessity and not

the employee's convenience – a very difficult test.

An employee working part-time from his or her home in Connecticut, for example, must pay income taxes to New York and Connecticut on compensation for the same work. The employee is taxed by New York because he or she *could* have worked there and by Connecticut because he or she *actually* worked there. Double taxation discourages telecommuting and the environmental and other benefits it provides, asserts Himes.

#### Physical presence test

The proposed legislation provides that a state may deem a nonresident individual to be present in or working in the state for any period of time only if the individual is *physically present* in the state during that time. A state is prohibited from imposing nonresident income taxes on a nonresident's compensation for any period of time during which the individual is physically present in another state.

For purposes of determining physical presence, a state may not deem a nonresident individual to be present in or working in the state on the grounds that: (1) the individual is present at or working at home for the individual's convenience; or (2) the individual's work at home or office at home fails any convenience of the employer test or any similar test.

For purposes of determining the periods of time with respect to which compensation is paid, a state may not deem a period of time during which a nonresident individual is physically present in another state and performing certain tasks in this state to be: (1) time that is not normal work time; (2) nonworking time; or (3) time with respect to which no compensation is paid.

H.R. 2600 would take effect on the date of enactment. It has been referred to the House Committee on the Judiciary. ■

## APA Suggests Revision of 2010 Withholding Tables Under MWP Credit

Adding two more brackets to the current wage withholding tables and creating a mandatory separate set of withholding tables for pensions, for as long as the Making Work Pay (MWP) credit is in effect, will result in more accurate withholding and will prevent erosion of confidence in the tax system. This was among the arguments made to the IRS and to the House of Representatives' Committee on Small Business by Scott Mezistrano, CPP, APA's Senior Manager of Government Relations.

As we reported in the [March 2009 edition of "Inside Washington,"](#) there are many categories of taxpayers who may find at the end of the year that not enough tax has been withheld from their pay because of some unintended consequences of the MWP credit. A description of the problem, suitable for sharing with employees, appears in the summer edition of the SSA/IRS Reporter ([www.irs.gov/pub/irs-pdf/p1693.pdf](http://www.irs.gov/pub/irs-pdf/p1693.pdf)). The article directs taxpayers in these categories to the IRS Withholding Calculator to adjust their W-4s and avoid this problem.

Even with the best communication efforts of the IRS and the APA, however, many of these taxpayers are unlikely to adjust their W-4s, and will therefore find themselves underwithheld for tax year 2010. This problem will go beyond 2010 if the MWP credit is made permanent, as the President has proposed.

The APA's suggestions could reduce cash-flow problems for employees and burden for employers that deal with employee questions and complaints:

1. Revise the withholding tables for wages for 2010, with two more income/tax brackets:

- Carve out \$6,451 of the current 10% withholding tax bracket (\$12,902 for married taxpayers) and subject it to withholding at the rate of 3.8% (10% less 6.2%).

- Add 6.2% withholding on a similar amount of wages in a higher earnings bracket to phase out the withholding reduction for those whose modified adjusted gross income disqualifies them from the credit.

2. Create mandatory separate withholding tables for pensions for 2010, using the pre-MWP tables, adjusted for inflation.

If suggestion 1 is implemented, a correctly completed W-4, using the "Two Earners/Multiple Jobs Worksheet," will result in correct withholding for double-income couples and individuals with more than one job at a time.

As for suggestion 2, while IRS did issue an optional withholding procedure for pension payers (because pensions had been subject to the same withholding tables as wages, but pension earnings are not eligible for the credit), the fact that it is optional means that every pensioner has to find out whether his or her payer has implemented the new procedure and adjust or not adjust his or her W-4.

It is true that, if these suggestions are applied, many people who adjusted their 2009 W-4s and W-4Ps will have to adjust them again for 2010. However, as has also been noted, many taxpayers have not adjusted their withholding. Moreover, re-adjustment of W-4s and W-4Ps by the proactive population will be required anyway if the credit expires at the end of 2010.

Meanwhile, if these suggestions are not implemented, then anyone who enters the workforce or starts a new job between now and the expiration of the credit will have to use the IRS Withholding Calculator to complete the W-4 differently from how it would otherwise have been completed and then adjust it again after the credit expires. Payroll professionals would rather tell employees to use the existing worksheets on the W-4 (which they should be using even in the absence of the MWP credit), than tell them that the W-4 isn't sufficient and they need to go online for further information and adjustments.

If these suggestions are implemented, however, then the only taxpayer who will need to adjust his or her W-4 because of the MWP credit will be a taxpayer who can be claimed as a dependent on someone else's return (and who makes enough to be subject to withholding). ■