



PAYROLL CURRENTLY

Inside Washington

February 2010

Federal Contractors Have Extra Time to Roll Out E-Verify to All Locations

U.S. Citizenship and Immigration Services (USCIS) has advised APA of an important extension of time for employers that are federal contractors. Effective September 8, 2009, these employers are required to use the E-Verify system to verify the work eligibility of all employees working under the contract and all employees hired after the date of the contract (see [PAYROLL CURRENTLY, Issue No 14, Vol.17](#)).

The Immigration Subcommittee of APA's Government Affairs Task Force noticed that, as written, the rules may give certain employers a very large task to complete in very little time. Presented here is the question posed by the subcommittee and the response from USCIS legal counsel, as relayed to the subcommittee by Amy Lawson, Associate Chief of the Verification Division.

Q. Under the Federal Acquisition Rule (FAR), an employer that has been enrolled in E-Verify for 90 or more days at any worksite and then becomes a federal contractor is immediately

required to perform E-Verification on all new hires hired at all worksites. Are you getting any pushback on this? It may be difficult for an employer to immediately roll out E-Verify to all of its worksites upon becoming a federal contractor. Or is there generally some lead time between the award of the contract and the effective date of the contract?

A. You are correct that under the FAR, an employer that has been enrolled in E-Verify for 90 or more days at any worksite and then becomes a federal contractor is required to use E-Verify on all new hires hired within the company. Please note that if a company is already enrolled in E-Verify and receives a contract with the FAR E-Verify clause, they have 30 calendar days from contract award or contract modification to update their profile in E-Verify to reflect that they are now a "Federal contractor with the FAR E-Verify clause." Companies must then begin using E-Verify for their new hires within 90 days after they update their profile. ■

Postal Service Will Return Child Support Remittances Mailed to Private Child Support Collector Engaged in Mail Fraud

The United States Postal Service (USPS) will soon begin returning to employers child support remittances recently mailed to Child Support Services of Atlanta (CSS), a private firm in the business of collecting child support on behalf of custodial parents.

On August 28, 2009, the USPS's Chief Postal Inspector filed a complaint alleging that CSS was engaged in a scheme to obtain money or property through the U.S. mail by means of false representations (see below).

A preliminary injunction was issued on September 16, 2009, allowing the USPS to detain mail connected to these fraudulent practices. On February 1, 2010, the USPS was notified to begin returning mail, including child support payments sent by employers. Returned mail will be marked "Returned to Sender Due to Addressee's Violation of Postal False Representation Law." If the sender cannot be identified from the outside of the envelope, the mail will be destroyed.

USPS complaint: fraud and misrepresentation

The USPS complaint accused CSS of running "a scheme to obtain money through the mail based on false representations." Allegations included the following:

- CSS fraudulently claimed it was affiliated with a

state agency with the authority and responsibility to collect child support payments through various legal and extra-legal processes and sent noncustodial parents official-looking documents that appeared to have come from the State of Georgia courts.

- CSS misrepresented that it had an actual presence, rather than merely a post office box, in Atlanta.

- CSS misrepresented its fees and charges and defrauded those with whom it did business.

- CSS induced custodial and noncustodial parents who were already under valid court-ordered child support orders to terminate their affiliation with Georgia's Office of Child Support Services.

- CSS forged correspondence with state child support collection entities, or fraudulently posed as custodial parents in telephone conversations, directing the state to close certain files, which allowed CSS to serve those custodial parents.

- CSS threatened noncustodial parents, via telephone and by mail, with non-court-ordered arrest warrants, license suspensions and wage garnishments to induce them into collection contracts.

- CSS refused to allow custodial parents to cancel their contracts even when the parents attempted to do so according

to CSS's advertised terms.

- CSS converted funds obtained from custodial and noncustodial parents to personal use.

Advice for employers

Employers should continue to honor valid income withholding orders (IWOs)/notices from other entities including, but not limited to, state child support enforcement agencies, courts, custodial parents, private attorneys, and tribes, for the noncustodial parents/employees affected by this case. As a reminder, if an employer receives an IWO from an entity other than a state or tribal child support enforcement agency or court,

the sender must also include a copy of the underlying child support order.

If an employer returns the payments it receives as a result of this case to the noncustodial parent/employee, and that individual is ordered to pay child support, the employee should be instructed to follow the terms of that order. It would be prudent for employees to retain proof of payment, in case such proof is needed in the future.

Employers with questions can send an inquiry by e-mail to the federal Office of Child Support Enforcement (OCSE) Employer Services Team at employerservices@acf.hhs.gov. ■

Statement Showing 2008 New York State Tax Refund Available Electronically Only

For many taxpayers, state income tax refunds have to be included in federal taxable income. States remind taxpayers of the amount of the refund by issuing Forms 1099-G, *Certain Government Payments*, by January 31 of the year following the year in which the refund was issued.

The New York State Department of Taxation and Finance is no longer mailing Form 1099-G. Instead, it is advising taxpayers who need the amount to complete their federal tax return as follows:

- check their paperwork for a record of receiving such a check,
- visit New York's Online Tax Center at www.nystax.gov/pit/1099g.htm, or
- call 518-485-0799 (in-state callers without free long distance may call 866-698-2946).

Contrary to IRS rules on electronic delivery and TIN-masking

While Form 1099-G is a form that the IRS allows to be

delivered electronically, current IRS rules require that payees provide their consent before the payer (in this case, New York) terminates the delivery of a paper form. In addition, even if a payee has provided consent, the payer is required to send an individual notification (by mail, by e-mail, or in person), and the notification must provide instructions on how to access and print the form. New York has not met these requirements, and your employees may not know to look for their 1099-Gs unless you tell them. *Note:* The APA has suggested that the IRS include this information in its e-mail subscription service for tax return preparers.

Additionally, New York is masking a portion of the taxpayer identification number (TIN) on these forms. For example, the first five digits of an individual's social security number will appear as X's. This is the proper format for TIN-masking, according to recent IRS guidance, but IRS doesn't allow TIN-masking on electronically delivered forms (see **PAYROLL CURRENTLY, Issue No. 23, Vol. 17**). ■

APA, Treasury Confer on Auto-Enrollment of Employees in IRA Plans

The Obama Administration is proposing that employers be required to set up automatic deductions from employees' pay for individual retirement accounts (IRAs). By "automatic," the proposal means that, unless an employee is covered by an employer-sponsored retirement plan or unless an employee makes an affirmative election not to participate, the employer would need to set up the deduction, set up an IRA for the employee, withhold a percentage of pay, and remit those funds, perhaps according to a schedule similar to the one used for its tax deposits.

Representatives from the APA and the National Payroll Reporting Consortium met with officials from the Department of

the Treasury to discuss implementation issues surrounding this proposal. Issues discussed included:

- What qualifies as "covered by an employer retirement plan"?
- How will employers remit the money and what reporting will be required?
- If the employee opts out within the 90-day window allowed under the proposal, who would be responsible to issue the refund – the employer or the investment house?
- Who would be responsible for verifying the name and taxpayer identification number (required for any investment account)? ■

Submit Your Payroll Questions for the 2010 Federal Forum

One of the most popular workshops at the APA's Annual Congress is the *Forum on Federal Payroll Issues*, which features a panel of representatives from five federal agencies answering challenging payroll questions posed by our members. The questions are provided to the panelists about a month in advance, so they can do any necessary research and deliver complete answers.

If you have a question about a federal payroll law or regulation, or how it should be applied in your particular setting, please send it by March 19 to smezistrano@americanpayroll.org. You may

pose a question to the Internal Revenue Service, the Social Security Administration, the Office of Child Support Enforcement, the Department of Labor, or the Department of Homeland Security.

In addition to being presented at the Congress workshop, many of the questions and answers will be transcribed for publication in **PAYROLL CURRENTLY**. Last year's Congress Q&A appeared in **Issue No. 13, Vol. 17**.

APA's 28th Annual Congress will be held May 25-29 just outside Washington, D.C. For more information, visit www.americanpayroll.org/congress. ■