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# PAYROLL CURRENTLY

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## GATF Subcommittees Recharge at APA Congress

Six subcommittees of the APA's Government Affairs Task Force (GATF) met at the 28th Annual Congress, setting new agendas for the next 12 months and creating new opportunities for input and contributions from members. If you'd like to share your perspective in these efforts, contact the coordinator of the relevant subcommittee (see below).

What follows are quick summaries of the meetings of three of the subcommittees: Federal Tax Forms and Publications, Immigration, and SSA Wage Reporting Redesign. More details are available on each of their pages on the APA website ([www.americanpayroll.org/government/](http://www.americanpayroll.org/government/)).

### The forms and pubs 'book club'

Payroll professionals rely on publications from the Internal Revenue Service and Social Security Administration for guidance as to what is taxable, how to value it, how to calculate withholding, and how to report wages and taxes. The forms we complete are our communications back to the IRS and SSA. The GATF subcommittee on Federal Tax Forms and Publications provides regular input to both agencies, and the agencies, in turn, accept a high percentage of our suggestions for improvements. For example, the IRS now allows you to discard undeliverable Forms W-2, as long as you can electronically reproduce them.

This year, the subcommittee will operate like a book club. We will meet by teleconference every two-three weeks, and in preparation for each meeting, everyone will read the same form and/or publication so that we can share our reactions and recommendations. The IRS is considering reorganizing Publications 15, 15-A, and 15-B (the employer tax guides) and wants our input. We'll also talk about new reporting requirements in connection with health care reform.

Our first 2010 meeting is June 16 at 2:00 pm (EDT). We will discuss Publication 957, *Reporting Back Pay and Special Wage Payments to the Social Security Administration* (explains how to report nonqualified deferred compensation and wages that are paid in one year but that were earned in a prior year) and draft revisions of two notices, CP102 and CP112 (inform employers of math errors on Forms 941 and 944, respectively). See [www.americanpayroll.org/government/government-019/](http://www.americanpayroll.org/government/government-019/) for all three of these forms.

To join the subcommittee, send your name, title, organization, phone number, and e-mail address to Emily Rook, CPP, at [emilyrook@comcast.net](mailto:emilyrook@comcast.net).

### Immigration: confusion over I-9 'employment' date

The subcommittee on Immigration holds monthly

teleconferences that include APA members and staff from U.S. Citizenship and Immigration Services (CIS) and U.S. Immigration and Customs Enforcement (ICE). We confer on issues surrounding Form I-9, E-Verify, immigration-related forms and publications, employer outreach, and worksite enforcement. Two representatives from CIS and two from ICE attended our in-person meeting at Congress.

We told CIS about the rampant confusion surrounding the date the employer must enter in Section 2 of Form I-9 ("I attest ... that the employee began employment on [date] ..."). We said that, in order to avoid requiring the employer to attest to the occurrence of an event that may not have taken place, the date should be the earlier of the day Section 2 was signed (for situations when the Form I-9 is completed before the first day of work) or the first day the employee performed services for pay. CIS said that employers should enter the first day of work. While we like the simplicity of that, we explained that, when I-9 and E-Verify are completed before the first day of work, that date won't be accepted by E-Verify, which does not accept future dates. In any case, the form and instructions should provide clear guidance.

ICE is holding a free training conference for their IMAGE program (ICE Mutual Agreement between Government and Employers) in Arlington, Virginia on August 9-10. They will post details on their website soon, but employers can get on the registration list by sending an e-mail to [image@dhs.gov](mailto:image@dhs.gov). In addition, ICE will soon be providing APA a document on best practices for I-9 compliance.

Other topics discussed with CIS and ICE include the planned June 13 change in the E-Verify user interface, the new green card (which now has a "USCIS #" in place of an "Alien #"), rules for electronic I-9 systems, and the new hotline employees can use to get more information about Form I-9, fixing a tentative nonconfirmation, or reporting an employer misuse of E-Verify (888-897-7781).

To join this subcommittee, send your name, title, organization, phone number, and e-mail address to Gretchen Inouye, CPP, at [ginouye@harrahs.com](mailto:ginouye@harrahs.com).

### SSA: blurring the lines between business and personal?

Any individual who uses any of the services, business and/or personal, of the Social Security Administration's website will have just one user ID and password as of spring 2011, according to Jeff Walsh, project manager for the Authentication Team, in the Office of the Chief Information Officer, in SSA's Office of Open Government.

While that may sound convenient, members of the SSA

Wage Reporting Redesign Subcommittee raised concerns about using the same ID to upload their employers' wage files and to apply for retirement or other benefits from SSA. They said they wouldn't want personal information to be sent to their work e-mail addresses (which are subject to employer access), and they certainly wouldn't want employer information sent to their personal e-mail addresses, potentially creating a personal liability.

The SSA assured us that individuals who use its services on behalf of multiple employers would be able to have a separate "affiliation" for each employer and that each affiliation could have access to all the services the related employer has authorized.

While current users of SSA's Business Services Online will be grandfathered in, new registrants may be required to authenticate their identity with an "out of wallet" data element based on data held by the SSA and/or a credit bureau, such as Medicare wages for one of the past seven years or the last eight digits of a credit card. Users of the

## Amendment to Financial Reform Bill Would Impact Paycard Programs

In the wake of the banking collapse and the subsequent bailout, Americans are generally welcoming some sort of financial reform. Both houses of Congress have responded by passing bills to that effect. Most recently, the Senate passed the Restoring American Financial Stability Act (S. 3217) and the two houses will now have to work out the differences in the bills before financial reform can be enacted into law.

Senator Dick Durbin (D-IL) has offered a late amendment to the bill that would have a big impact on employers' ability to pay their employees through payroll debit cards. The amendment calls for an adjustment to the manner in which the interchange fee is determined for credit and debit card transactions, resulting in a lower fee. The interchange fee is an amount the merchant pays for each card transaction. In the United States, these fees normally amount to about 2% of the purchase price.

With regard to payroll debit cards, issuing companies currently make all of their profit through the interchange fee. If merchants pay a lower fee or no fee at all, the cost is expected to shift to consumers. Card issuers do not expect employers to be willing to accept an increased cost for their paycard programs, which means that the costs will ultimately fall on employees through increased fees for various transactions and services. As fees to employees increase, employers can expect to face increased challenges convincing their employees to enroll in paycard programs.

In the worst-case scenario, if companies cannot make a profit offering paycards, they will leave the business. The APA believes this would be a disservice to consumers as well as employers, because card users generally receive better terms and conditions through employer-provided programs than they receive through retail programs.

Upon passage of the bill by the Senate, the APA wrote to all members of Congress asking that the amendment be stricken from the bill. "If the Durbin Amendment becomes law, the Federal Reserve will be required to regulate interchange in a manner unrelated to the actual cost of issuing debit cards," wrote Cathy Beyda, chair of the GATF subcommittee on Paycards. "Specifically, the Amendment limits the factors that the Federal Reserve could consider when setting interchange rates to the cost of individual transactions only. Payroll card vendors currently rely on interchange to cover a variety of expenses including those associated with infrastructure, customer service, account management, and fraud protection. Under the Durbin Amendment, these costs could no longer be considered when establishing interchange rates. As a result, debit card issuers will either be forced to eliminate services or find another source of revenue. In the payroll card context, the only other source of revenue is the employer. Our experience leads

most sensitive online services, such as social security number verification, may be required to enter a one-time password sent by the SSA via text message to their cell phones.

Also discussed were the SSA's plans to randomize the issuance of SSNs (see "SSN 'Randomization' to Begin in June 2011" in [PAYROLL CURRENTLY, Issue No. 6, Vol. 18](#)) and communications between the SSA and individuals who submit wage files. One question posed to the subcommittee was whether they would like an e-mail acknowledgment of the receipt of the wage file. Interestingly, most said "no," but a representative of the payroll service provider industry said this would be very important to his business.

The subcommittee will soon be establishing a schedule of teleconferences. To take part, send your name, title, organization, phone number, and e-mail address to Marcelle Richardson-Dicker, CPP, at [marcelle\\_richardson-dicker@toyota.com](mailto:marcelle_richardson-dicker@toyota.com). ■

us to believe that employers are unlikely to offer beneficial payroll card programs, particularly in today's economy, if they involve additional costs."

### Interchange controversy

Interchange fees are a source of controversy internationally. Merchants complain that only the very largest of them have the clout to negotiate the fees. While accepting credit and debit cards undoubtedly increases sales, the interchange fee sometimes exceeds a merchant's profit margin. In lawsuits the interchange rates have been attributed to collusion, price-fixing, and antitrust violations.

Improvements in technology and efficiency have not lowered the interchange rates as merchants would have liked. Instead, card providers have provided reward programs and services to consumers. Arguments have been made that consumers will benefit from a decrease in the interchange rate, but there is little expectation that the benefit will come in the form of lower costs for goods and services.

### Vermont restricts interchange rate

Vermont became the first state to pass legislation restricting the interchange rates. S. 138, An Act Relating to Unfair Business Practices of Credit Card Companies and Fraudulent Use of Scanning Devices and Re-Encoders, passed into law in May without the approval of the governor. In Vermont, once legislation reaches the governor's desk, it becomes law unless the governor vetoes the bill within five days.

In a letter to the Secretary of the Senate David Gibson, Governor James Douglas explained his (in)action by saying that "Vermont will be the first state in the nation to challenge the rules of the electronic payment system through legislation. This is not without risk to Vermonters and, particularly, those who depend on visitors to our state for their livelihoods. Consumers may find that their debit and credit cards are not accepted by certain merchants or in certain situations. Also, certain electronic payment systems may decide to pull out of the state or offer limited services in Vermont."

The APA asked the governor to veto a bill relating to paycards using many of the same arguments, but on May 21, he signed into law S. 58, An Act Relating to Electronic Payment of Wages. It requires employers to provide three free withdrawals to cardholding employees. Depending on how the term "withdrawal" is eventually defined – if, for example, it is defined as ATM transactions – employers could find the cost of providing pay through a paycard to be three times that of a paper paycheck. If it is defined to include point-of-sale transactions, which are currently free to the cardholder, then employer programs may be unaffected. ■