In testimony submitted by the APA to the New Hampshire House of Representatives’ Labor, Industrial, and Rehabilitative Services Committee on January 29, the APA warned that, “If enacted, H.B. 1404 would impose unnecessary and unduly burdensome requirements on the use of payroll cards. Indeed, the requirements of H.B. 1404 are so restrictive and cost prohibitive that they likely will establish a de facto ban on the use of payroll cards in New Hampshire, hurting the very workers the bill seeks to protect” (www.americanpayroll.org/government-government-007/).

The burdensome requirements cited by APA include banking fees that employers would be required to pay on behalf of their employees. While all workers paid through payroll cards must be able to obtain their full pay – down to the penny – each pay period without incurring a fee, H.B. 1404 would require employers to provide their employees with a number of free banking services. This goes well beyond anything required when paying employees in any other manner.

• First, H.B. 1404 would go beyond requiring full and free access to wages, and would require that employees be provided at least three free withdrawals each pay period up to and including the full amount in the employee’s payroll card account. In other words, if an employee withdraws his or her full wages on payday but later receives deposits from other sources during the pay period, the employer would have to pay for the employee to access these other – nonwage – funds without cost. Indeed, H.B. 1404 would prohibit any fees, ever, for cash withdrawals at any in-network ATMs or bank tellers.

• Additionally, H.B. 1404 would prohibit payroll card issuers from charging employees virtually any type of fee associated with the use of their payroll card. As an example, employers would be required to provide monthly written statements unless the employee affirmatively declines this option – even though most employees do not read written transaction histories and even though the information is always available to employees electronically without cost.

• Finally, H.B. 1404 would prohibit employers from offering payroll cards to their employees until after the employees have been offered, and have declined, the option to receive wages by direct deposit and paper paycheck. APA holds that employers should be permitted to offer their employees all payment options at one time so that employees can select the option that is best suited for them.
the IRS has announced an update to its Internal Revenue Service Advisory Council (IRSAC). APA member Helen Karakash, CPP (see www.irs.gov/uac/Newsroom/IRS-Announces-New-Internal-Revenue-Service-Advisory-Council-Members), will join APA member and IRS Issues Subcommittee co-chair Karen Salemi, FLMI, CPP, for the 2014 term. Salemi was appointed to IRSAC last year and currently serves on the Small Business/Self-Employed subgroup. Note: IRSAC members generally serve a three-year term with a possible one-year extension. The six new members will join 14 returning members in 2014.

IRS Commissioner John Koskinen applauded the selections. “We are fortunate to have these new members of IRSAC,” he said. “The members bring a wealth of insight and experience that we appreciate as we seek to effectively administer the tax law.”

Members are selected to bring their substantial, disparate experiences and diverse backgrounds to the Council’s activities. They include representatives of the taxpaying public, tax professionals, small and large businesses, academia, and the payroll community. The Council provides an organized public forum to discuss tax administration issues and present feedback, observations, and suggestions.

IRSAC meets four times a year in Washington, D.C., and submits a report to the IRS in November at a public meeting. To read a summary of the payroll-related highlights of the 2013 report, see “Inside Washington” for December 2013.

APA Member Appointed to IRSAC

On January 15, the Maryland Commission to Study the Regulation of Payroll Services submitted its report to the Maryland legislature. The report makes three recommendations, i.e., that the Comptroller: (1) “implement an electronic verification system for employers,” (2) send address change confirmations to an employer’s old and new address, and (3) take steps to increase employer awareness through “newsletters, publications, and on the agencies’ websites.” Importantly, the report states that “the Commission does not support bonding, licensing or registration requirements, or quarterly withholding reconciliation.” This is consistent with the position taken by the APA in written (available at http://csps.maryland.gov/meetings/pdf/10-24-2013/APA.pdf) and oral testimony (see “Inside Washington” for November 2013) before the Commission.

Additional resources and legislation required

While the Commission’s report notes that its proposal to increase employer awareness “can be implemented by the agencies with existing resources, through regular means of communication to employers,” other proposals will require additional resources. For example, the report states that “the Comptroller’s computer system currently is not able to permit businesses to verify tax payments made to the Comptroller by accessing their Comptroller account online. Accordingly, this proposal will require additional information technology (IT) resources to implement.”

Similarly, the report indicates that change of address confirmation notices will require “additional, perhaps substantial, IT resources to implement,” because the Comptroller’s computer system currently is not able to mail the same notice to two different addresses.

Related federal legislation

While the Maryland Commission was established as a state level response to a scandal involving a Maryland-based payroll service provider, the issue has also received attention at the federal level.

• Maryland Senator Barbara Mikulski has introduced a bill that would (1) establish registration and bonding requirements for payroll tax deposit agents, (2) mandate certain disclosure statements by payroll tax deposit agents to their clients, and (3) require the IRS to mail notices confirming change of address to a taxpayer’s old and new addresses (see PAYROLL CURRENTLY, Issue No. 6, Vol. 21, “Preventing Payroll Service Provider Tax Theft and Fraud Is Goal of Proposed Legislation”).

• The appropriations bill, signed into law by President Obama on January 17, contains a related provision requiring the IRS to issue to both the employer’s former and new address a notice of confirmation of any address change relating to employment tax payments, and to give special consideration to an offer-in-compromise from a taxpayer who has been the victim of fraud by a third-party payroll tax preparer (see PAYROLL CURRENTLY, Issue No. 2, Vol. 22, “Capitol Hill Update”). Mikulski was quoted in the Baltimore Sun as saying she hoped the provision would “protect small businesses from becoming victims of tax theft.”

Submit Your ‘Payroll and AP Puzzlers’ for the 2014 Federal Forum

Got a tough payroll or accounts payable compliance question for the federal government? Submit it now for the Forum on Federal Payroll Issues workshop at our 32nd Annual Congress. Experts from six federal agencies (IRS, SSA, OCSE, DOL, USCIS, and ICE) will answer your most perplexing questions about how federal law should be applied to your trickiest situations. Send your question by March 15 to ctatum@americanpayroll.org so it can be forwarded to the panel for research and a complete answer.

To be there in person when your question is answered, register for the APA’s 32nd Annual Congress, being held May 13-17 in Minneapolis, Minnesota. Go to www.americanpayroll.org/congress for more information and to register.

Many of the questions and answers will be published in PAYROLL CURRENTLY. Last year’s Q&A appeared in a special report in Issue No. 7.