



# American Payroll Association

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Government Relations • Washington, DC

Mr. David F. Roose  
Deputy Comptroller and Chairman  
Goldstein Treasury Building  
80 Calvert Street  
Annapolis, MD 21401

October 24, 2013

**Re: Maryland Study Commission on Payroll Service Industry Regulation**

Dear Chairman Roose:

The American Payroll Association (APA) is writing to provide information regarding the regulation of payroll service providers in Maryland and any effect regulations would have for our members, many of whom work for or use a payroll service provider to comply with laws and regulations governing payroll and employment tax administration.

The APA is the country's leading private sector advocate for payroll and information reporting issues. The APA is a nonprofit association representing 21,000 payroll professionals, including many who work for the major payroll service providers in the United States which, in turn, process payrolls for an additional 1.5 million employers. The employers for whom APA members process payrolls are diverse in terms of business size, location, and industry. As payroll specialists, APA's members must determine proper employment tax withholding, prepare and file accurate information returns and statements, correct (when necessary) such information returns and statements, calculate and deposit taxes, and maintain all necessary payroll records.

Many employers outsource one or more parts of their payroll administration to third party providers. Most commonly, employers use these providers to make required tax deposits and payments and handle quarterly state unemployment insurance wage and tax reporting and payment and annual W-2 filings and reconciliations. Employers must comply with a myriad of complex federal, state, and local regulations and hiring a service provider greatly reduces costly IRS and state tax penalties.

The APA has been involved in the dialogue over regulation of payroll service providers for many years. Since 2007, we have met with representatives of the Treasury, the IRS, the IRS Taxpayer Advocate, and the Senate Finance Committee to provide education about the payroll service industry, particularly that overly stringent protections could drive all but the largest service providers out of business and make it necessary for the surviving providers to significantly increase their fees.

In recent years, there have been infrequent but well publicized cases involving payroll service providers that collect tax amounts from clients' accounts but fail to deposit them with the proper authorities. However, 99.99% of Reporting Agent clients nationwide have suffered zero losses and have benefited significantly from the specialized knowledge and sophisticated systems of payroll service providers. Moreover, current criminal provisions have been effective in punishing bad actors; virtually every past incident was successfully prosecuted with significant jail terms and restitution.

We are a co-contributor of the consensus paper submitted to the Commission on behalf of the National Payroll Reporting Consortium<sup>1</sup>, the Independent Payroll Providers Association<sup>2</sup>, and the Payroll Group<sup>3</sup> and agree with its recommendations. We applaud recent IRS guidance<sup>4</sup>, which requires all payroll Reporting Agents to provide a disclosure statement to all clients at the time of contracting and at least quarterly thereafter. To communicate this guidance to our members, we write articles for our monthly publications and send out compliance updates raising awareness that members should check their tax deposits regularly to verify they are being made.

Regulation, bonding and licensing would result in businesses becoming less diligent. Employers may view licensing or even hosting a listing of registered service providers as a state endorsement and fail to check their tax deposit status regularly. Regulation, bonding and licensing would also raise barriers to competition and raise payroll administration costs. Many APA members work for payroll service providers, who would be concerned about the cost and difficulty of obtaining bonds, especially if each state establishes its own licensing requirements.

We agree with the need to broadly raise awareness among employers of the risks of using a payroll service provider. We also support the notion that state tax authorities and labor departments should ensure that businesses are able to view their tax accounts to verify receipt of tax payments. This feature should be promoted to raise awareness that periodic verification is necessary to demonstrate diligence in tax administration.

We thank the Commission for the opportunity to comment. Please feel free to contact us if you have any questions or wish to discuss this matter further.

Sincerely yours,

Brian O'Laughlin  
Senior Manager, Government Relations and Multinational Certification  
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<sup>1</sup> National Payroll Reporting Consortium, whose member organizations provide payroll processing and related services to over 1.4 million employers nationwide, covering over one-third of the private sector work force.

[www.nprc-inc.org](http://www.nprc-inc.org).

<sup>2</sup> Independent Payroll Providers Association, an association of over 300 independent providers of payroll and other related services throughout the United States. [www.ipppa.net](http://www.ipppa.net).

<sup>3</sup> The Payroll Group, a national network of independent payroll service providers. [www.thepayrollgroup.org](http://www.thepayrollgroup.org).

<sup>4</sup> IRS Revenue Procedure 2012-32, 2012-34 IRB 267