



AMERICAN PAYROLL ASSOCIATION

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August 12, 2014

Mr. John Koskinen
Commissioner, Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

RE: Accelerated Deadline for W-2 filing

Dear Commissioner Koskinen:

On behalf of the American Payroll Association (APA), the IRS Issues Subcommittee of the Government Relations Task Force is writing to provide an impact statement on the proposed provision in President Obama's 2015 fiscal year budget referencing the acceleration of the deadline for filing Forms W-2 with the SSA to January 31st from the last day of February (March 31st for electronic filing). This is the latest in a series of proposals seeking to accelerate W-2 filing. Perhaps the most notable example can be found in former Commissioner Shulman's vision for a Real Time Tax System.

The APA is a nonprofit association of over 20,000 payroll professionals who process payroll for approximately 17,000 employers throughout the 50 states, the District of Columbia and the U.S. territories. Our membership also includes representatives of large, medium, and small payroll service providers who are responsible for processing payroll for an additional 1.5 million employers. In total, the APA represents those professionals responsible for paying an aggregate total of one-third of the private sector workforce.

The goal of the APA's Government Relations Task Force is to work with all branches of government to facilitate compliance with the law while minimizing the administrative and financial burden on government, employers, and employees. The APA recognizes and supports that there may be many benefits realized through accelerated reporting, most notably the reduction of tax refund fraud. However, the proposed change is significant in nature and will have a dramatic effect on employers as well as the payroll profession. We would like to highlight some of the potential issues that may occur.

Current Information Return Filing System

Under the current Internal Revenue Code and IRS Regulations, the wage reporting filing system works in the following manner:

- Employers provide Form W-2, *Wage and Tax Statement*, to each employee by January 31. On this form, the employer reports the employee's prior year wages and tips subject to federal, state, and local income tax as well as social security and Medicare taxes, plus

the amounts withheld for those taxes. Other reported amounts related to tax administration include:

- Dependent care benefits
 - Nonqualified deferred compensation distributions
 - Elective deferrals to retirement plans, including designated Roth contributions
 - Uncollected social security and Medicare taxes on tips or group-term life insurance provided to former employees
 - Taxable cost of group-term life insurance provided to current employees
 - Substantiated employee business expenses if the employee is reimbursed more than the IRS allowable per diem or mileage allowance
 - Nontaxable moving expense reimbursements paid to employees
 - Nontaxable combat pay paid by a military employer
 - Contributions to medical savings accounts and health savings accounts
 - Qualified adoption expense reimbursements
 - Nonstatutory stock option income at exercise
 - Deferrals (requirement temporarily suspended) and income under a §409A nonqualified deferred compensation plan
 - Cost of employer-sponsored health coverage
- Employers provide Form W-2 to the Social Security Administration (SSA) by the last day of February (paper) or March 31 (electronic file required if 250 or more W-2s). If the employer files paper W-2 copies with the SSA, it must also submit a Form W-3, *Transmittal of Wage and Tax Statements*. If the employer files electronically, the W-3 information is included as part of the file.
 - After processing the Forms W-2, the SSA transfers its W-2 files to the IRS. This transfer is made some time after SSA receives the W-2 information.
 - Employees file their personal income tax returns either on paper or electronically from early January through April 15. The IRS processes the returns based on the information provided by the employees, including any Forms W-2 attached by the employees.

Issues with Accelerating the Filing Deadline

- Availability of final information for an accurate W-2 for a current or former employee:
 - Third-party sick pay and state disability pay information is not due to employers until January 15 for inclusion on an employee's Form W-2.
 - Information comes to payroll from many sources. For example, accounts payable systems and third party vendors send information after year-end for taxable payments such as nonqualified moving expenses, prizes and awards, noncash fringe benefits, stock transactions.
 - As more businesses continue to go global, information will begin to come from many more sources, such as global employees and regional and local payroll providers.
- Reconciliation timing and adjustments
 - Requiring an earlier filing date would shorten the time to perform year-end adjustments and reconciliation processes.
 - Employers filing taxes using in-house software would have a larger burden to provide the file by 1/31.

- Payroll service providers have stringent deadlines for receiving data from clients. Accelerating the date would push this deadline earlier and could result in a significant increase in adjustments because of pressure on the service provider to provide the W-2s to employees and the file to the SSA so close together.
- Increase in W-2c's and amended 1040's
 - An earlier annual reporting deadline would likely invoke a trade-off between timeliness and accuracy.
 - Based on internal and external discussions and analyzing the statistics of service provider client submissions, we estimate that about 6% to 8% of employers adjust W-2 data after their original submission. Given an earlier deadline, some of these adjustments could result in amendments rather than corrected original submissions.
 - Adjustments will have to be made after the file is sent to the SSA and resulting in a higher volume of Forms W-2c, *Corrected Wage and Tax Statement*.
 - Many tax preparers' software does not accept W-2c's electronically. Any W-2c information would have to be manually entered.
 - A significant increase in amended 1040's may occur reflecting the adjustments made by the W-2c's.
 - Increase in filing of 941-X, *Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund*, to correct previously filed returns.
- Software impact
 - Software used by employers for in-house processing and software used by service providers may have to be modified.
 - IRS system updates would be required to handle the influx of corrected returns from both employers and employees.
- There is also an unknown impact from filing the new ACA-related forms 1094 and 1095 B and C required under IRC §§ 6055 and 6056.

Possible Alternatives and other Measures to Facilitate Earlier W-2 filing

- Increasing the electronic filing threshold for Forms W-2 or outright mandating electronic filing eliminates issues with handwritten forms.
- Moving the tax filing season
 - Historically, taxpayers can begin filing their individual tax returns by the second week of January if they have all their applicable third-party information, although the IRS may have no data to match against the information on the return.
 - Delay refunds until data is received from SSA and refund claims can be validated.
 - Move the date the W-2 is due to the employee to end of February and require the file to be provided to the SSA and possibly the IRS on the same date (Canada's T-4 is due to employees and the federal government on the same day).
- Send a preliminary Accu-Wage consistent W-2 file in January with the final amended file allowed to be sent using current dates.
- Require payors of third-party sick pay to tell employers about reportable amounts no later than January 8th instead of January 15th.

Stakeholders

The list of possible stakeholders includes (but is not limited to)

- Certified Public Accountants

- Professional Association of Small Business Accountants (PASBA)
- Independent Payroll Providers Association (IPPA)
- National Association of Computer Tax Professionals (NACTP)
- National Payroll Reporting Consortium (NPRC)
- Software Vendors

The intent of changing the due dates to reduce fraud and create a more streamlined process is clear and the objective is admirable. However, the impact of moving the due date needs to be thoroughly reviewed prior to such a significant change.

Thank you for allowing us to offer our perspective as part of this critical discussion. Please do not hesitate to contact us if you have any further questions.

Sincerely yours,

Rebecca Harshberger, CPP
Karen Salemi, FLMI, CPP