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1. 0901_GC_Paycards
2. 0901_GC_Jankowski

Government Corner

APA Questions Advice From Georgia Attorney General, DOL Regarding Paycards

By William Dunn, CPP

APA member William Weissman, an attorney with the law firm Littler Mendelson, recently asked the Attorney General of the state of Georgia certain questions regarding the use of paycards. Much to his—and our—surprise, the AG’s office responded that paycards cannot be used in the state, because state law (specifically O.C.G.A. §34-7-2) does not include paycards as an acceptable method of wage payment. That’s quite a surprise, as the state itself uses paycards to pay state employees. Moreover, the state does not even allow state employees to receive paper checks.

In response to this news, Cathy Beyda, Esq., Chair of the GATF Paycard Subcommittee, drafted a letter to Senior Assistant Attorney General W. Wright Banks, Jr. Beyda wrote the following:

“Section 34-7-2 allows employers to pay their employees in cash, by check or, with the employee's consent, by direct deposit into the employee's own bank account. While section 34-7-2 does not mention payroll cards, section 34-7-3 specifically authorizes the use of "other instruments" of wage payment provided certain conditions are satisfied. Most payroll card programs satisfy the requirements of Georgia's wage payment statutes. In fact, the State of Georgia pays many of its own employees using payroll cards and gives these employees the choice of receiving their wages through direct deposit or on a payroll card. By its express terms, section 34-7-2 applies to both public and private sector employers. Accordingly, there is no reason why if it is lawful under sections 34-7-2 and 34-7-3 for the state to compensate its employees using payroll cards, and even to require its employees to choose between electronic forms of wage payment, it is not lawful for private sector employers to pay their employees in this manner.”

The subcommittee awaits a response from the state. The subcommittee’s letter to the Georgia Attorney General, as well as letter the subcommittee has sent to other state officials, may be seen on the **[APA Government Relation’s page](http://www.americanpayroll.org/government/)**.
<http://www.americanpayroll.org/government/>

New Chair Helps ACH Committee Tackle New Challenges

Amy Jankowski, CPP, Founder and Senior Consultant of Terrene Consulting in Houston, Texas, has accepted APA's invitation to chair its ACH Committee. Jankowski has broad experience in the industry with a specialty in international payroll. That specialty will prove particularly useful as members tackle new rules regarding international ACH transactions (IATs), which go into effect in September 2009. See the August/September issue of **PAYTECH** <http://legacy.americanpayroll.org/pdfs/pt08h/h0608.PDF> and the November issue of *Inside Washington* <http://legacy.americanpayroll.org/pdfs/pc2008/08NovIDC.pdf> for more information.

Jankowski is a longtime member of the ACH committee, and is also a member of APA's National Speakers Bureau. In 2008, she presented at NACHA's Payments 2008 Conference and taught APA's PPL classes.

Stepping down as chair is Dee Nelson, CPP, Payroll Manager for Alutiiq, LLC, in Anchorage, Alaska. She has been an active APA member for several years, and is a member of APA's Hall of Fame, having received the Meritorious Service Award in 2003 and Special Recognition Award in 2007. Most recently, Nelson was named Payroll Woman of the Year at the Alaska State Payroll Conference.

Workshops Aplenty at 2009 Capital Summit

By William Dunn, CPP

The **2009 Capital Summit**, <http://www.americanpayroll.org/product/?cid=48&gid=87> being held in Washington, DC March 19-20, will feature speakers from a number of government agencies, as well as industry experts. Here is a preview what to expect from Washington's best and brightest.

Paycards

State laws govern wage payments, but federal law also has significant impact on the use of this payment method. Christopher Henke, Counsel with the Federal Deposit Insurance Corporation (FDIC), will discuss his agency's latest ruling regarding the applicability of insurance to pooled and individual paycard accounts.

Pete Isberg, Vice President of Government Relations with ADP, will discuss APA's efforts to have all states recognize paycards as a valid payment instrument. One state says publicly that paycards are not allowed, though privately it acknowledges it can't stop people from using them. Two other states have issued private opinions saying paycards are not allowed, but since the opinions are only issued to those who ask for them, how do they impact the rest of us? Come find out.

International ACH Transactions

In September, new rules go into effect pertaining to international ACH transactions. APA consistently finds that many members don't understand these new rules well enough to know whether or how the rules will impact their payrolls.

Under direction of the Office of Foreign Assets Control (OFAC), NACHA—The Electronic Payments Association, developed the rules. APA has asked Priscilla Holland, AAP, CCM, to help explain them at the Capital Summit. Priscilla, the Senior Director of International Programs for NACHA, is one of the authors of those rules.

Also on hand will be Alexandre Manfull, Chief of OFAC Implementation, to explain the need for these new rules and role businesses play in keeping our financial system safe from use by terrorists and international narcotics traffickers.

Data Privacy

Though identity theft is one of the fastest growing crimes in America, Congress has been slow to adopt laws regarding data privacy. The states have worked to fill that hole. The latest trend in data privacy at the state level is the growing need to encrypt data before it is transmitted electronically. Bob Belair, a privacy expert and partner with the Washington, DC, law firm Oldaker, Belair & Wittie, will explain these developments and offer his prediction on what is to come.

To help fight identity theft, a few years ago the IRS opened the office of Privacy, Information Protection and Data Security. Deborah Wolf, Director of the PIPDS will describe recent efforts to reduce the use of taxpayers' identification numbers (including social security numbers), known as TIN masking. The IRS's efforts are expected to allow employers to truncate or completely mask TINs on forms such as the W-2, but not everyone thinks this is for the best.

Look for more previews of Capital Summit in next month's PAYTECHOnline.

New Leader in GATF Data Privacy Subcommittee

Andrew McDevitt, Manager of Government Relations for Intuit—based in Washington, DC—is taking over as chair of the Data Privacy Subcommittee in APA's Government Affairs Task Force. McDevitt helped form the subcommittee in 2005, when he worked for APA as Manager of Government Relations. Since joining Intuit, McDevitt has remained an active member of the subcommittee, and takes the helm with a strong grasp of the subject matter and a keen understanding of government relations.

Carla Gracen, CPP, CIPP, Senior Product Manager for Ceridian, is stepping down as chair. She has led the subcommittee since its inception, and has been an active force in APA membership, increasing our collective knowledge of data privacy concerns.

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GOVERNMENT CORNER

Puzzling Payroll Quandary Arises in Georgia

Confusion has surfaced regarding the use of paycards in the state of Georgia. While the state itself pays some of its employees via paycards, Georgia's Attorney General recently told an APA member that paycards—per state law—may not be used in Georgia.

More>> <http://www.americanpayroll.org/paytechonline/government-corner/>