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Consumer Advocate Suggests Roadmap for Payroll Card Growth

In January, Consumer Financial Services Innovation (CFSI) released its *Compass Guide to Payroll Cards* (www.cfsinnovation.com/Document-Library/The-Compass-Guide-to-Payroll-Cards), which offers “aspirational guidelines” for companies providing payroll cards. The APA was one of 18 organizations advising CFSI on the use of payroll cards and the practicality of the *Compass Guide*.

CFSI is a consumer advocate with a mission “to improve the financial health of Americans, especially the underserved.” Because payroll cards are traditionally considered to be a product for un- or under-banked employees, CFSI began to explore what the cards might offer employees beyond the mere delivery of their pay.

“Payroll cards are fundamentally high-quality products,” CFSI says, “but their design and delivery is not uniform across the industry.” Certain employers’ implementation of the cards has also been called into question. All of this led to backlash from media and state legislators. “Since payroll cards provide value to so many hard-working Americans, condemning the industry as a whole by enacting overly restrictive legislation is not productive. Rather, we should encourage all actors in the payroll card value chain – beginning with the financial service providers that design the cards and ending with the employers that deliver the cards – to work together to ensure that high-quality programs are available to all employees.”

Once a fringe wage-payment method, payroll cards are now mainstream. That makes it all the more surprising that, last year, two state legislatures (Hawaii and Pennsylvania) considered banning their use.

Core practices

APA offered suggestions on “core practices,” which align closely with the legal aspects of paying employees. “There is no one-size-fits-all approach to a high-quality payroll card and there is inherent value to choice, diversity, and innovation in the marketplace,” CFSI says. With that in mind, CFSI lays out 14 examples of elements that high-quality payroll cards might incorporate. The examples align well with those APA has proposed in conjunction with the National Consumer Law Center (NCLC; <http://info.americanpayroll.org/pdfs/paycards/APA-NCLC-Paycard-guidelines.pdf>).

CFSI encourages companies to go beyond “core practices,”

which include easy access to funds, balances, transaction histories, and customer service; clear explanations of the cards’ terms and conditions; limited fees; and the ability to make purchases at a wide variety of businesses.

Stretch practices

In what it terms “stretch practices,” cards become tools useful beyond the ordinary delivery of pay and point-of-sale purchases – to transfer money from card to card or to a bank account, including to individuals living outside the United States, or to split pay between a payroll card and another form of payment, such as direct deposit.

CFSI suggests that mobile applications (i.e., through a cell phone) can further enhance the utility of payroll cards for employees. The ability to receive low-balance alerts, transaction alerts, and similar messages can save employees time and money.

Convincing employees to give up their paper checks in favor of payroll cards is a recurring theme in payroll circles, and it is not hard to see how “stretch practices” would make these cards more attractive. To varying degrees, providers are currently offering these features to APA members.

Next gen practices

The third and final phase of CFSI’s *Compass Guide* is “next gen practices” involving budgeting, savings, and credit.

Budgeting features might include personal financial management tools designed for specific users based on their spending behaviors. Savings features might include the ability to maintain and access multiple accounts through a single card and even incentives such as interest or rewards to encourage saving.

APA has emphasized to CFSI that access to credit on a debit product is a very controversial proposition. Since a credit score is a common barometer of financial well being, perhaps it is no surprise that CFSI, as an authority on consumer financial health, should consider credit as part of an individual’s overall financial picture. Various consumer advocates have declared, unambiguously, that credit has no place in a debit product. CFSI does not recommend that payroll cards offer this feature or suggest what form credit might take. What it does say is, “If a credit service is offered in conjunction with a payroll card, providers exercise caution and only offer affordable and high-quality options that cardholders can repay without entering a cycle of debt.”

Credit comes in a variety of forms. Overdraft protection is considered credit. An advance on payroll is another form of credit. While these forms of credit are legal, APA and payroll card providers are suspicious of the very appearance that payroll cards might be linked to payday loans, the poster child of financial trouble.

Conclusion

As it stands, fewer than half the states have laws or

regulations governing payroll cards. As APA encourages the remaining states to introduce and pass legislation regulating payroll cards, it is helpful to have consumer advocates like CFSI and NCLC supporting the payment method as helpful to employees. APA's focus will remain on the core features of payroll cards that allow employers to pay wages timely, efficiently, and with minimal risk. ■

Payroll Card Legislation – 2015

In January, seven states introduced 12 bills to regulate payroll cards. Last year, 19 states introduced more than 20 bills; only four were enacted, so many of those states are expected to revisit the topic.

As of February 1, bills had been introduced in Colorado, Connecticut, Florida (2), Iowa (4), Minnesota, New York (2), and Washington.

Colorado S.B. 101 would allow employers to make all wage payments electronically to a bank account or to a payroll card, with one significant proviso. The employer would have to allow the employee seven days to provide a bank account number before issuing a payroll card. For some employers, the due date might require that a first paycheck be delivered by paper check.

Connecticut S.B. 430 would prohibit employers from requiring that employees accept their pay on a payroll card as a condition of employment. APA is aware that state legislators may be considering another bill, but it has not yet been introduced.

Florida H.B. 325 and S.B. 456 are companion bills that would include payroll cards and direct deposit as acceptable methods by which labor pools might pay day laborers. S.B. 456 would allow day laborers to refuse payment by payroll card or direct deposit. A similar bill was considered last year but was not enacted.

Iowa H.S.B. 94 and S.S.B. 1004 are companion bills that would codify employers' ability to pay wages by payroll card. Currently, the state Division of Labor Services recognizes payroll cards as a legitimate payment method. Among other things, the bills provide that employees paid by payroll card would have to be allowed at least one free withdrawal per pay period, no less than two per month, and unlimited free access to account balances by telephone.

Iowa H.S.B. 23 would remove an existing provision so that employers would be able to transition all employees (unless covered by a collective bargaining agreement) over to electronic payments. Under current law, employers may require employees hired after July 1, 2005, to participate in direct deposit so long as the associated cost does not reduce the employee's pay below minimum wage or the employee would incur fees as a result. The

revised law also would apply to employees hired before July 1, 2005. Though this bill references direct deposit, it is understood that employees who do not have bank accounts may be paid by payroll card.

Iowa H.B. 40 would provide protections to employees of employment agencies by prohibiting agencies from charging fees for various goods or services, including "a bank card, debit card, payroll card, voucher, draft, money order, or similar form of payment that exceeds the actual cost per employee."

Minnesota S.B. 444 would apparently allow employers, in certain instances, to give employees the choice between payroll cards and direct deposit, without the option of a paper check. As introduced, the intent of the bill is confusing. APA presumes that the provision is meant to apply to new employees and will suggest alternative language to clarify the issue.

New York A.B. 3109 and S.B. 2590 are companion bills that would recognize payroll cards as an acceptable method of payment in the state. Employers would have to receive an employee's written authorization before paying by payroll card, and any employer offering payroll cards would also have to offer direct deposit. Employers would have to provide a complete list of any fees that might apply. Employees would have to be provided one free withdrawal, for the entire amount of net pay, each pay period. Employees paid more frequently than weekly would be entitled to one free withdrawal each week. Employees would have to be provided the ability to check account balances through an automated telephone system and one additional electronic means, without cost, regardless of the number of inquiries.

Washington H.B. 1211 would authorize employers to pay by payroll card, but if there is a fee for using a card, the employer would have to provide an alternative method that allows employees to obtain their wages without any fees or costs. Prohibited fees and costs would not include those not imposed by the employer, such as check-cashing fees imposed by third parties. ■

Two APA Members Named to IRPAC

Past APA President Emily Rook, CPP, is among the newest members of the IRS' Information Reporting Program Advisory Committee (IRPAC). Rook is a consultant with Circle Financial Services, based in Illinois. She also serves on APA's board of directors and is co-chair of the Federal Forms and Publications Subcommittee of APA's Government Relations Task Force. On IRPAC, Rook will serve on the Benefits and Payroll Subgroup.

APA member Mary Kallewaard returns to IRPAC, now to chair the entire committee. Kallewaard is a principal and cofounder of COKALA Tax Group, of Ann Arbor, Michigan. She is coauthor of the *APA Guide to Accounts Payable*, published by

Wolters Kluwer. Last year Kallewaard served as vice-chair of IRPAC and also on the Burden Reduction Subgroup.

In all, IRPAC will have 22 members in 2015 – representing taxpayers, tax preparers, large and small businesses, the financial industry, and payroll providers. Each year the committee prepares a report for the IRS Commissioner. Rook is among six new members, and Kallewaard is among the 16 members returning to continue their three-year terms [IR-2015-11, 1-28-15; www.irs.gov/uac/Newsroom/IRS-Announces-Six-New-Members-for-Information-Reporting-Program-Advisory-Committee]. ■