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Experts Discuss Payroll Card Developments at APA Capital Summit

The political landscape surrounding payroll cards can be fairly rocky. A year ago, the Connecticut Department of Labor did not recognize payroll cards as a legitimate wage payment method, a court case in Pennsylvania threatened to outlaw the payment method in that state, and rules proposed in New York threatened the very existence of the industry there. At the federal level, proposed regulations touting enhanced consumer protections implied that the payment method lacked sufficient oversight.

Speakers at APA's 2017 Capital Summit provided a different, sunnier, picture. As Cathy Beyda, Esq., explained, Connecticut enacted a law recognizing the payment method, the Pennsylvania Superior Court upheld the legitimacy of payroll cards, and the New York rules were overturned. Beyda, an attorney with Paul Hastings LLP, chairs the APA's Government Relations Task Force Payroll Card Subcommittee. Speaking with her was Kris Andreassen, Esq., senior counsel in the Office of Regulations at the Consumer Financial Protection Bureau (CFPB).

State bills

"Currently, 27 states recognize payroll cards in their wage payment statutes or regulations," Beyda said. In the remaining states, labor departments recognize payroll cards, usually as a form of direct deposit. So far in 2017, eight states have introduced bills to govern payroll cards. Massachusetts S.B. 1008 is the most remarkable because it incorporates many of the onerous provisions included in the overturned New York regulations. Beyda said that S.B. 1008 is unlikely to progress in the state legislature, but another bill (H.B. 3135) with more reasonable provisions has a better chance. Beyda said a bill in Virginia (H.B. 1445) that would have restricted the use of electronic payments died in committee. This follows a trend in which efforts to severely restrict electronic payment methods are being defeated.

The remaining bills under consideration in Connecticut (H.B. 5281), Iowa (S.F. 141), New York (A.B. 243), Pennsylvania (H.B. 320), and West Virginia (S.B. 73) contain reasonable provisions that reflect the needs of both industry and consumers. A Kentucky bill (H.B. 378), which also is reasonable, was signed into law on March 27 with an anticipated effective date of June 28, 2017.

Federal regulations

The prepaid account regulations that were finalized last year by the CFPB are not meant to reflect negatively on payroll cards, Andreassen said. They are intended to provide greater transparency to consumers choosing among a variety of prepaid financial products, which include not only payroll debit cards but also general purpose reloadable cards. The CFPB recognizes that these cards are used as alternatives to traditional bank accounts. To accommodate requests from the paycard industry, the CFPB recently proposed to delay the effective date of the final rule by six months, until April 1, 2018 (see PAYROLL CURRENTLY, Issue No. 4, Vol. 25, "CFPB Proposes Delayed Implementation of Final Rule on Prepaid Accounts"). The comment period on the proposal closed on April 5, Andreassen said.