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Proposed Rule to Force New York Workers to Reconsent to Direct Deposit, Payroll Cards

Unintended impact of proposed rule may force many employees to be paid by check

New York —A new proposed wage payment rule, if finalized as is, would force millions of employees in New York State to re-authorize their employers to pay them by direct deposit or a payroll card. If employers do not obtain new consents within six months, they will have to pay their employees in cash or by check.

The proposed rule requires employers to provide nonexempt employees with detailed information about their payment options prior to obtaining consent to direct deposit or payroll cards. Authorizations that do not comply with these requirements will no longer be valid. Because of the complex requirements of the proposed rule, it is unlikely that any existing direct deposit authorizations – some dating back 20 or 30 years – will survive.

“Several provisions of the new rule would place crushing burdens on employers and employees alike while offering little or no benefit,” said Bill Dunn, director of government relations for the American Payroll Association. “Most nonexempt employees in the state would be forced to reconfirm how they’d like to be paid – regardless of their satisfaction with the way they are paid now.”

For payroll cards, the proposed rule will also require employers to wait seven business days before honoring an employee’s voluntary choice to receive a payroll card. As a result, those employees will receive a paper paycheck and may need to pay expensive check cashing fees for the first pay period or two, just to get their wages. Employers also can be fined unless there is an ATM that provides unlimited free withdrawals within reasonable travel distance to each employee’s place of work or home.

Cathy Beyda, chair of the American Payroll Association’s Subcommittee on Payroll Cards, states “The proposed rule goes too far. Workers in New York State may suffer unintended consequences ranging from an interruption in direct deposit services to loss of payroll cards as a payment option.” Beyda notes that some payroll card providers have stated they may not be able to offer payroll cards in New York State if the proposed rule is adopted in its current form.

The NYSDOL is accepting comments on the proposed rule until July 15. Unless the state’s Department of Labor is persuaded to revise the proposal, employers will have six months to comply after the final rule is published.

New York residents, employers that employ workers in the state, and business leaders are strongly encouraged to submit comments to Michael Paglialonga at regulations@labor.ny.gov. A full copy of proposed regulations can be found at <http://docs.dos.ny.gov/info/register/2016/june15/pdf/rulemaking.pdf>

About American Payroll Association

Established in 1982, the American Payroll Association (APA) is the nation's leader in payroll education, publications, and training. The nonprofit association conducts nearly 500 payroll training conferences and seminars across the country each year and publishes a complete library of resource texts and newsletters. Every year, nearly 37,000 professionals attend APA training sessions. Representing more than 20,000 members, APA is the industry's highly respected and collective voice in Washington, D.C. Visit APA online at www.americanpayroll.org.

About NACHA — The Electronic Payments Association

Since 1974, NACHA – The Electronic Payments Association has served as trustee of the ACH Network, managing the development, administration and rules for the payment network that universally connects all 12,000 financial institutions in the U.S. The Network moves money and information directly from one bank account to another. Through its collaborative, self-governing model, education, and inclusive engagement of ACH Network participants, NACHA facilitates the expansion and diversification of electronic payments, supporting Direct Deposit and Direct Payment via ACH transactions, including ACH credit and debit payments, recurring and one-time payments; government, consumer and business transactions; international payments, and payments plus payment-related information. Through NACHA's expertise and leadership, the ACH Network is now one of the largest, safest, and most reliable systems in the world, creating value and enabling innovation for all participants. Visit nacha.org for more information.

About the National Payroll Reporting Consortium

The National Payroll Reporting Consortium (NPRC) is a non-profit trade association whose member organizations provide payroll processing and related services to over 1.5 million employers nationwide, covering more than one-third of the private sector work force. www.nprc-inc.org