



PAYSTATE UPDATE

The Latest State and Local Payroll Compliance News from the American Payroll Association

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APA Submits Comments on Payroll Cards in Revision of Uniform Unclaimed Property Act

On February 25, APA submitted comments to the Uniform Law Commission (ULC) on their revision of the Uniform Unclaimed Property Act. Specifically, the Government Relations Task Force (GRTF) Subcommittee on Payroll Cards is concerned about the definition of payroll debit cards in the uniform law, and worries the payment method may be misunderstood. The revised version of the uniform law has not yet been finalized.

Uniform law definition of payroll card

Currently, the revision of the uniform law defines “payroll card” as “a stored value card that: (A) is issued to or held by an employee or at the direction of the employer, into which monetary value has been placed to pay wages, commissions, bonuses, or reimbursements to the employee; (B) evidences an account over which the employer retains control; and (C) does not discharge the employer’s obligation to the employee until withdrawn by the employee.”

Subsection A. This part of the definition seems to imply that a payroll card account is tied to a fixed relationship between a single employer and an employee. While the employer-employee relationship is in fact a key characteristic differentiating payroll cards from other general-purpose reloadable debit cards, the definition fails to acknowledge that the cards are transferable. Once an employee obtains a payroll card, that employee may have wages deposited to it from subsequent or additional employers. In fact, when provided with account and routing numbers a subsequent employer might not realize it is making deposits to a payroll card account rather than a checking, savings, or similar account.

Reg. E definition of payroll card recommended. APA suggests that the ULC apply the definition found in Regulation E, issued by the Consumer Financial Protection Bureau pursuant to the Electronic Fund Transfer Act (15 U.S.C. §1693 et seq.), which defines a payroll card account as “an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer’s wages, salary, or other employee compensation (such as commissions), are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution or any other person” (see 12 C.F.R. §1005.1(b)(2)).

Section B. APA finds this section troubling because an employer has absolutely no control over the payroll card account. In accordance with Regulation E, the employee owns the account. The employer deposits funds into the payroll card account just as it would do for an employee receiving direct deposit to a bank account. Once the card has been issued, the employee enters into a relationship with the card provider. This is similar to the relationship between a customer and a financial institution.



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Section C. This section implies that the payroll card is the functional equivalent of a check. For the purpose of the uniform law, APA believes these cards may only be understood as deposit accounts. A year or three years after the wages have been paid, the employer has no ability to cancel and reissue the payment as it would with a check. On payday, the funds are irrevocably transferred from employer to employee.