

Role of Reporting Agents in the Provision of F/EA Services: Advantages, Challenges and Contracting and Evaluation Issues

US DHHS/OASPE Sponsored Government & Vendor Fiscal/Employer Agent Workshop

Presented by:
Chris Murray
PayChoice

November 1, 2007
10:30 – 11:15 am

1

Introduction

- The goal of this session is to provide you with information about:
 - Why Is It Important to Discuss Reporting Agents Related to F/EAs Now?
 - What is a Reporting Agent?
 - Reporting Agent Authorization and Tasks
 - Unique Features of F/EA Payroll
 - Benefits of F/EAs Using Reporting Agents
 - Challenges of F/EAs Using Reporting Agents
 - Criteria for Selecting a Reporting Agent
 - Effective Contracting with a Reporting Agent
- Another term used to refer to a reporting agent is *payroll processor*.



2

Why Is It Important to Discuss Reporting Agents Related to F/EAs Now?

- IRS Proposed Notice 2003-70 states that Government F/EAs operating under Rev. Proc. 80-4 can designate F/EA task to a reporting or subagent but is silent on whether Vendor F/EAs operating under Rev. Proc. 70-6 can use one.
- The May 2007 version of the IRS Form 2678, *Agent/Payer Authorization* states, for the first time, that all F/EAs may contract with a third party, such as a reporting agent, to prepare or file returns covered by this appointment or to make any required payments.
- It goes on to state that the contract may authorize the IRS to disclose confidential tax information of the employer/payer and F/EA to the third party (reporting agent). If the third party (reporting agent) fails to file the returns or make the payments, the F/EA and the employer/payer remain liable.
- With this new guidance from the IRS, it is important for state program agencies and Government and Vendor F/EAs to understand what a reporting agent is, its federal and state requirements and processes, the benefits and challenges of using one and be able to select, contract with and evaluate the performance of reporting agents effectively.



3

What Is A Reporting Agent?

- The IRS defines a reporting agent as "an accounting service, franchiser, service bureau (payroll processor) or other entity authorized to perform one or more of the following acts on behalf of a tax payer:
 - Sign and file electronically Form 940, *Employer's Annual Federal Unemployment Tax Return* and Form 941, *Employer's Quarterly Federal Tax Return*
 - Sign and file on paper Form 940-PR, Form 941-SS, Form 943, Form 943-R, Form 945, Form 1042 and Form CT-1
 - Make FTDs and FTPs and submit FTD and FTP information electronically for the taxes reported on the Forms 720, 940, 941, 943, 945, 990-C, 990-PF, 990-T, 1041, 1042, 1120, and Form CT-1
- File IRS Forms W-2 and W-3 on paper or electronically (IRS Revenue Procedure 2003-69).



4

Reporting Agent Authorization and Tasks

- IRS *Reporting Agent Authorization* allows a taxpayer to designate a reporting agent through the execution of an IRS Form 8655 to:
 - Do all that was listed in the definition above; and
 - Receive duplicate copies of official notices, correspondence, deposit requirements, tax rates, transcripts or other information with respect to tax returns and FTD and FTP.
- The IRS Form 8655, *Reporting Agent Authorization*, is the prescribed authorization form for a taxpayer to use to designate a reporting agent. The F/EA must execute one between itself and the reporting agent it contracts with.
 - It is recommended that F/EAs list their reporting agent as the second appointee on the IRS Form 8821, *Tax Information Authorization*, it executes with each program participant it represents.



5

Reporting Agent Authorization and Tasks

(continued)

- The scope of a reporting agent authorization is extensive and is described in IRS Rev. Proc. 2003-69 section 5.
 - However, for the purpose of F/EAs operating in conjunction with self-directed service programs, the scope of reporting agent authorization is filing and paying federal income tax withholding and employment taxes using the IRS Forms 940 and 941, and filing the IRS Forms W-2 and W-3, when applicable.
- Required State Authorizations
 - State taxation agencies can vary as to whom any state powers of attorney should be executed with/between (e.g. between the F/EA and the consumer or the reporting agent/payroll processor or both).
 - The scope of state reporting agent authorization (POA) is usually for the filing and paying state income tax withholding (SIT) (when applicable) and state unemployment insurance (SUI) and disability insurance taxes (when applicable).



6

Unique Features of F/EA Payroll

- There are a number of unique features related to F/EA payroll that reporting agents must address.
- Reporting Agent is Under Contract with the F/EA Not the Employer/Taxpayer
 - Usually a reporting agent contracts with the employer/taxpayer to perform payroll. In the case of the F/EA, it contracts with the F/EA who is the agent to employer/tax payer for purpose of payroll.
 - It is recommended that the F/EA obtain an informed consent statement from each program participant it represents stating that he/she knows the F/EA is using a reporting agent and the tasks it will perform and he or she concurs.



7

Unique Features of F/EA Payroll (continued)

- F/EA Payroll Is More Than Traditional Payroll
 - Most reporting agents provide a laundry list of available reports and services, and most are set-up to process payroll and generate reports in a *one fits all* mode. F/EAs require a different approach.
- Reporting agents must be able to:
 - Customize the filing and payment of SUTA for hundreds of program participants'-employers based on their individual SUI rates.
 - Inform the F/EA of the need to register a program participant as an employer and file and pay SUI on their behalf only when he/she has paid \$1,000 or more in aggregate wages in a calendar year quarter (federal and state household employer requirement);
 - Met different tax payment requirements for reporting agents contracting with Government F/EA (pay FICA and FUTA when filed) and Vendor F/EAs (pay FICA in accordance with IRS depositing rules and FUTA quarterly);



8

Unique Features of F/EA Payroll (continued)

- Not withhold FICA and FUTA/SUTA for applicable paid family support workers (i.e., spouses and parents of minor children);
- Determine when a program participant is no longer an employer permanently and file and pay final SIT and SUI on their behalf and retire their tax accounts and identification numbers;
- Refund over collected FICA (employer and employer portions) when a support worker does not earn \$1,500 from his/her employer in a calendar tax year (federal household employer/domestic service worker requirement).
- Need for Customized Payroll Software
 - Many accounting and payroll software products do not accommodate the requirements for F/EA related to filing and paying federal taxes in the aggregate and filing IRS Forms W-2 and W-3 per IRS F/EA requirements. Reporting agents serving F/EAs must customize their software to meet IRS F/EA requirements.



9

Unique Features of F/EA Payroll (continued)

- Individualized and Aggregate Reporting for F/EAs
 - Reporting agents need to be able to generate reports for the F/EA that provide both program participant-specific and aggregate information for example:
 - * Consolidated end of day program participant - F/EA gross to net liability report; and
 - * Consolidated monthly and quarterly tax liability reports that also provide information at the program participant level.



10

Unique Features of F/EA Payroll (continued)

- Customized Program Participant Reports
 - A reporting agent may be required to produce and distribute monthly reports to program participants that summarize their budget funds, expenditures and balances for the current period and to date.
 - States are looking for vendors that can provide program participant reports in "real time" that are internet-based and also provide paper reports.
- Ability to Have Flexibility and Control
 - Ability to view reports and checks online
 - Have a web-based solution for disaster recovery/backup) available 24/7
- Reporting agents should consider developing an F/EA team that is knowledgeable of F/EA requirements and only works with F/EA clients.



11

Benefits to F/EAs in Using Reporting Agents

- Custom Solutions
 - Payroll distribution
 - Printing & mailing of checks, stubs, reports to consumer on behalf of F/EAs
 - Reporting to F/EA
 - Paper
 - Electronic Viewing
 - Direct Deposit for non Banked PCAs
 - Electronic Transmission of selected data



12

Benefits to F/EAs in Using Reporting Agents (continued)

- Tax expertise
 - Staff and Systems group team up to stay up-to-date with the ever changing tax laws and IRS and State filing requirements.
 - * Deposit federal withholding, FICA, FUTA, state withholding and SUI.
 - * File quarterly and annual federal and state unemployment returns.
 - * File year-end tax forms.
 - * Comply with the IRS electronic regulations using the Electronic Federal Tax Payment System. (EFTPS)
 - * Comply, where applicable, with state electronic filing requirements.



13

Benefits to F/EAs in Using Reporting Agents (continued)

- Optional Payroll-related Services
 - Employment Screening
 - Powered by a national leader in employee screening. A service designed to take the hassle out of employee screening.
 - Human Resource (HR) Support Center
 - A comprehensive secure internet based HR help center that can help with common HR questions, problems, and information.
 - HR On-Demand
 - Has all of the HR Support Center features and capability, plus unlimited personalized HR consulting via email/phone regarding specific HR questions



14

Challenges for F/EAs Using Reporting Agents

- No liability for Tax Withholding
 - Reporting agents have NO liability for unfulfilled Federal Income Tax Withholding, State Withholding and Unemployment tax obligations in the eyes of the IRS. This is the case for ALL payrolls processed by a reporting agent. The IRS and many states hold the program participant-employer and the F/EA responsible for all tax liabilities including interest and penalties.
- Avoid the common pitfalls
 - Ensure the federal and state reporting identification numbers are correct and active.
 - The F/EA must insure that all tax liabilities are held in trust and collectable by the IRS or any State agency when due. Failing to do so will result in penalties and interest.
 - Some F/EAs allow the reporting agent to impound these monies into a trust account owned by the reporting agent. Again, should these monies not be available and collected in advance of the due dates, the liabilities will not be sent by the reporting agent. Again failing to send liabilities timely will result in penalties and interest.



15

Challenges for F/EAs using Reporting Agents (continued)

- Understanding payment frequencies and SUI rates
 - F/EAs are allowed to deposit federal withholding, FICA, and FUTA liabilities in the aggregate using the Fed ID assigned to the F/EA for this purpose. It is important that the F/EA look at the total liability for a pay period not that of the individual consumer.
 - Most states do not allow aggregate filing and payment for SUI and SIT but some have started allowing it for SIT
- Electronic Integration
 - It can support development issues
 - The intricacies of the system can be difficult to understand
 - State withholding payment frequencies are state specific. It is important that the F/EA understand the requirements for each location they have accountability in and just what is required to effect how the reporting agent will remit payments and file reports.
 - The reporting agent is responsible for updating its software to accommodate any regulators changes.



16

Challenges for F/EAs Using Reporting Agents (continued)

- The reporting agent needs to have an F/EA related procedural manual that coordinates with the F/EA's P&P Manual and addresses communication data transmission and reporting. It should be updated at least annually.
- A web-based resource center should be made available, by the reporting agent, linking to the IRS, SSA and all States to assist the F/EA with compliance issues.
- Security / Employee Theft
 - Reporting agent insurance & bonding imperative (minimum \$5 million in coverage against theft)
- System to grow into - not out of
 - Do they own and support their own technology?
 - What are their planned developments?



17

Criteria For Selecting a Reporting Agent

- States and F/EAs need to develop uniform criteria/standards that will ensure they are selecting effective reporting agents.
- Any criteria/standards should evaluate the reporting agent's:
 - Knowledge of F/EA payroll requirements and process (federal, state-specific and locality, if applicable);
 - Relevant experience in providing payroll processing services to a F/EA (at least two full federal tax years of experience for at least two F/EAs);
 - * How many years have they been serving F/EAs?
 - * How many F/EAs using their services?
 - * How many payrolls being processed?
- Financial viability and proof of registration to do business in the State.
- Ability to generate required reports;
- Has a F/EA-related policies and procedures manual that is customized for the particular state, coordinates with F/EA's policies and procedures manual and has communication, data transmission and reporting policies and procedures documented.



18

Criteria For Selecting a Reporting Agent

(continued)

- Applicable references (served at least two F/EAs for at least two tax years within the last three years)
- Ability to obtain a bond as required by the state and F/EA
- Ability to perform optional payroll-related services (Non-Requirements)
 - * Web-based Solutions
 - Process Payroll
 - View Payroll Reports
 - View Employee Check stubs and IRS Forms W-2
 - * Employment Screening – Background checks of Federal, State and Local databases of prospective support service workers
 - * Human Resource (HR) Tools – HR forms, employee handbooks, labor law posters, phone and e-mail support to answer HR questions.
 - * Direct deposit and payroll debit cards



19

Effective Contracting with a Reporting Agent

- It is essential that state program agencies acting as Government F/EAs and Vendor F/EAs develop and execute effective contracts with reporting agents. The contract should:
 - Clearly describe the reporting agent's role and responsibilities and how it is to communicate and transmit information between itself and the Government or Vendor F/EA;
 - Be performance-based with clear deliverables, performance standards and penalties for non-performance; and
 - Include a provision that holds the reporting agent liable for any unfulfilled federal, state or local income tax withholding and employment taxes, including penalties due to errors and omissions on its part.



20

Effective Contracting with a Reporting Agent

(continued)

- Government and Vendor F/EAs need to develop and implement a initial readiness/certification and performance/recertification review protocol to evaluate a reporting agent's readiness to provide payroll processing services to the F/EA and its ongoing performance based on the provisions of the reporting agent contract.
- State program agencies should develop standards/criteria that must be used by Government and Vendor F/EA to select a reporting agent.
- State program agencies should also have the ability to evaluate a reporting agent's performance in providing payroll processing services to a Vendor F/EA as part of its F/EA recertification/performance review process.



21