



American Payroll Association

Government Relations • Washington, DC

February 25, 2016

Statement Regarding Revision of the Uniform Unclaimed Property Act

ULC RUUPA Committee Members:

As the committee enters the final stages toward completing its revision of the Uniform Unclaimed Property Act, the American Payroll Association asks that it consider the following comments regarding payroll debit cards. We are concerned that the term is ill-defined and that the payment method may be misunderstood.

About the American Payroll Association

The APA is a nonprofit association representing more than 20,000 payroll professionals and their companies in the United States. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA's Government Relations Task Force works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations while minimizing the administrative burden on government, employers, and individual workers.

Revised Uniform Unclaimed Property Act

Section 102(20) reads:

- (20) "Payroll card" means a stored-value card that:
- (A) is issued to or held by an employee by 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 - (C) does not discharge the employer's obligation to the employee until withdrawn by the employee.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) 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.

We suggest that the ULC apply the definition found in Regulation E, the Electronic Fund Transfer Act, used by the Consumer Financial Protection Bureau, 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.” [12 CFR 205.2]

APA finds **Subsection (B)** particularly 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.

Subsection (C) implies that the payroll card is the functional equivalent of a check. For the purpose of the Uniform Unclaimed Property Act, 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.

We hope you find these comments useful as you consider your revision. If you have any questions, please contact Cathy Beyda at (650) 320-1824 or Bill Dunn at (202) 232-6889.

Sincerely,

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American Payroll Association

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