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August 29, 2006

Mr. Toraino Owens  
Florida Department of Revenue  
5050 W. Tennessee Street  
Tallahassee, FL 32399-0100

Via e-mail

Dear Mr. Owens:

Thank you again for meeting with NPRC members recently to discuss the Department's plans for a new UI wage and tax filing system, and reporting of wages paid in other states. In an effort to assist the Department in understanding the challenges faced in any such system, we have compiled the following issues, which should be addressed prior to making any final decisions. Keep in mind that Florida is the first state to consider such reporting, so it is critical that the program be well-crafted, striking an appropriate balance between obtaining needed information and imposing unnecessarily costly and difficult reporting burdens on employers.

With respect to the new data elements related to 'out of state' wages, we understand that the Department will expect quarterly wage reports to include details of prior wages paid in other states, by state. For example, if a worker was paid wages in Florida and another state in the same year, the FL wage report would include the amount of wages reported to the other state and state abbreviation, in addition to Florida earnings. DOR wants this information in order to be able to factor such wages into its recalculation of Florida taxable wages.

In the TIGERS meeting, you requested a schema change to add a complex data type for "out of state wages", consisting of total out of state (OOS) wages this quarter, taxable OOS wages this quarter and state abbreviation, with up to 50 instances (i.e., when wages were paid to a FL worker in multiple states within a year, the DOR expects the related amounts to be reported separately, by state).

We agreed to take offline whether YTD OOS wages was necessary to figure current quarter taxable wages. Following is a simple example. Unless FL DOR receives *year-to-date* OOS wages, the employer will receive a notice of additional tax due, necessitating the '8A' amendment form that the Department seeks to avoid with the OOS wage reporting requirement.

Example: After earning \$14,000 in South Carolina through June 30, 2007, employee Joe Smith is paid \$3,000 in the third calendar quarter ('3Q') in SC, and then starts working in Florida, earning \$7,000, for a total of \$10,000 in 3Q. The wage records for the first three quarters would be as shown below. (SC wages would have been reported to SC exclusively until the worker moved to FL.)

			Gross Wages	Taxable Wages
1Q2007 SC report	Joe Smith	SC Wages	\$4,000	\$4,000
2Q2007 SC report	Joe Smith	SC Wages	\$10,000	\$3,000
3Q2007 SC report	Joe Smith	SC Wages	\$3,000	\$0
3Q2007 FL report	Joe Smith	FL Wages	\$7,000	\$0
		SC Wages	\$3,000	\$0

Assuming such wages are reported in FL DOR's new system, including out of state wages *this quarter*, taxable OOS wages *this quarter* and state abbreviation, in this example, the DOR would only see the worker's 3Q2007 wages (\$3,000 in SC and \$7,000 in FL). DOR's system would recalculate the employer's 3Q2007 FL taxable wages as \$4,000 (or \$7,000, depending how FL DOR's systems are designed), and assess additional tax due. As discussed, the Department may need to obtain OOS wages paid this **year**, instead of this quarter. Using this approach and the example above, the 3Q FL report would reflect as follows:

3Q2007 FL report	Joe Smith	FL Wages	\$7,000	\$0
		SC YTD Wages	\$17,000	\$7,000

The alternative would be separate reporting of OOS wages paid this quarter and in addition, OOS wages paid in prior quarters this year. Under this alternative and the example above, the 3Q FL report would reflect as follows:

Joe Smith	FL Wages	\$7,000	\$0
	SC QTD Wages	\$3,000	\$0
	SC YTD* Wages	\$14,000	\$7,000

\* YTD wages paid in prior quarters; i.e., excluding the current quarter

Presumably the Department would not want separate reporting of OOS wages by quarter, and a lump sum (by state) would suffice to reflect all wages earned in 1Q and 2Q.

It may also be necessary to clarify the intent of the OOS taxable wage reporting requirement; i.e., using the taxable wage limitation of the state in question, or of Florida? If the state in question was Georgia, for example, with a taxable limit of \$8,500 (and assuming reporting of YTD OOS wages), the 3Q FL wage report would reflect the following:

Joe Smith	FL Wages	\$7,000	\$0
	GA YTD Wages	\$17,000	\$8,500

This approach may be simpler for employers but may raise complications for Florida's taxable wage recalculation programs.

The Department should also issue guidance as to which state's wage definitions to use. Certain workers and certain wages are not subject to UI tax in other states, but are subject to UI tax in Florida. For example corporate officers are not subject to UI in some states but they are in Florida; and certain sick pay is exempt in Florida but taxable in other states. Presumably the Department would not wish to allow credit for wages and taxes paid in other states if wages were not actually taxable or tax was not actually paid. This issue may require employers to retroactively recalculate wages paid in other states against Florida's statutory definitions, which would be very complex. Payroll systems are generally not able to retroactively recalculate wages paid under any other state's laws, so differences in coverage would probably require manual intervention on the part of the employer. We would recommend that the Department permit reporting of OOS wages as defined by other state laws and using the taxable wage limits of the other states.

As a practical matter, the Department may need to weigh the costs and benefits of reporting of wages paid in other states to strike an appropriate balance. Such reporting can not be made mandatory; the only recourse would be that the DOR could refuse to process paper '8A' amendment forms separately reporting such wages. But it seems unlikely that payroll systems would develop the functionality necessary to support such reporting (as defined) in the foreseeable future. The Department may be more successful with this change by requesting a lump sum for year-to-date UI-subject wages paid in all other states, rather than separate reporting for each state. Example:

		<b>Gross Wages</b>	<b>Taxable Wages</b>
3Q2007 FL Wage Report:			
Joe Smith	FL Wages	\$7,000	\$0
	YTD Other state wages	\$17,000	\$8,500

In any event, the Department should expect to continue receiving a substantial volume of paper '8A' amendment forms from employers who either forget to report OOS wages or whose payroll systems do not accommodate such reporting. (Some off-the-shelf payroll software may never develop this capability, for instance.)

We understand that the FL DOR is responding to concerns expressed by the US Department of Labor about outstanding receivables, but recall that in many cases the amounts calculated as due are not valid. The amounts due are automatically generated by the relatively new taxable wage recalculation feature of the DOR's UI tax system, which does not consider wages paid in other states or by related employers. Minnesota is the only other state to recalculate taxable wages, and their law was changed so that wages paid in other states are ignored in their calculation. Otherwise, as expressed in the NPRC recommendations for state e-file systems, recalculation of UI taxable wages is viewed as too complicated.

We also understand that the Department wishes to avoid the roughly 35,000 '8A' paper wage amendments that have become necessary in response to the Department's taxable wage recalculation feature. Employers file '8A' amendment forms in response to invalid FL DOR assessments, in order to report OOS wages that were correctly included in employers' taxable wage calculations.

One alternative would be to provide an *option for employers to simply opt out of the taxable wage recalculation system*, including all clients of a service provider (i.e., electing service providers should be able to opt out on behalf of their clients). Automated payroll systems have accurately calculated UI taxable wages for decades, so the Department's recalculation feature provides no benefit to employers other than those who interact with the website application for individual submissions.

We look forward to the conference call we have scheduled with you on Friday September 8th at 1:00pm Eastern time. We requested this call so that all NPRC members can be informed as to the DOR's new electronic filing system for UI wage and tax reports, which is expected to be in place for first quarter 2007 filings. To participate, please dial (800) 377-0237 and enter participant access code 9745779. Please call me at 610 827-1591 if you'd like to discuss this in the meantime. Again, thank you. We look forward to working with you on Florida's new UI wage and tax reporting system.

Sincerely,



Pete Isberg  
National Payroll Reporting Consortium

Cc: James Evers, DOR  
Kanut Khosla, DOR  
Barbara Johnson, DOR  
Terry Garber, SC DOR; TIGERS  
NPRC members