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March 4, 2005

Mr. Michael Chesman
Internal Revenue Service
Director, Taxpayer Burden Reduction
SE:S:T
5000 Ellin Road
Lanham, MD 20706

Re: Proposed Employer's Annual Federal Tax Return

Dear Mr. Chesman:

The IRS is to be commended for its efforts to reduce taxpayer burden through initiatives such as the annual 941/944. However, as has been stated in several meetings with the IRS, any *burden reduction* initiative such as this would instead impose **substantial increases in burden** in real-world terms if implemented on a mandatory basis. Designated annual filers should be permitted to continue to file quarterly if they so choose, perhaps at least for those who file electronically and pay electronically.

- Many small employers who would qualify for an annual filing rely on highly automated systems, including Reporting Agents and off-the-shelf software, that already generate quarterly filings at no additional cost. They would gain no reductions in cost by not filing quarterly. Any change, especially to computer systems and software, would instead impose additional costs.
- It increases burden to require the attention of affected employers to explain the change, and increases burden further if they have to do something about it. If the annual filing and payment schedule requirement determination may subsequently change (i.e., when tax liability unexpectedly increases), affected employers may be burdened by the need to monitor whether they need to transition in or out of the new category.
- To the extent that eligibility criteria for the annual schedule differ from current deposit schedule criteria, additional complexity may be created. For example, to determine their deposit schedule correctly for 2005, employers must consider: (1) their total federal liability for *calendar 2003 and any prior calendar year* (if it exceeded \$200,000 they must pay electronically); (2) the employer's total 941 liability for *July 2003 to July 2004* (if it exceeded \$50,000, they must deposit semiweekly); (3) the employer's *projected* 941 liability for *calendar 2005* (if less than \$2,500 in each quarter, the employer may deposit quarterly); (4) and now (presumably) – the employer's 941 liability for *calendar 2004* (if it is less than \$1,000, the employer must deposit annually). Payroll services have learned through experience that they must review each test for each employer. That is, although it might seem unlikely that an employer would have more than \$200,000 in 941 liability in 2003 and less than \$1,000 in 2004, it is not impossible, and the penalties are severe enough that every case must be checked.

- Employers, Reporting Agents and tax professionals would thereafter have to keep track of another indicator – annual or quarterly – where today there is no need to maintain records as to which category applies to which employer. Every additional data element to be tracked is also another opportunity for error. The IRS should carefully evaluate every possible failure point related to this change; e.g., how will it be communicated? What will happen to the XX% of employers who do not receive or understand the notice? Will paper and/or electronic Forms 941 that are subsequently filed be accepted, or rejected? What will that do to the annual filing requirement? And so on.

The only way that an annual employment tax filing requirement would actually reduce burden would be to allow designated annual filers to continue to file quarterly if they so choose, without requiring each filer to advise the IRS of their choice; e.g., the IRS could automatically cancel the annual filing designation and re-establish the quarterly requirement based upon receipt of a Form 941. However, it would also make sense to permit continued quarterly filing only for those who file electronically and pay electronically, in order to provide incentives for electronic filing.

NPRC was also asked whether Form 8655 should be revised in anticipation of the Employer's Annual Federal Tax Return. Reporting Agents generally pay and report all employment taxes for employer clients, so it follows that Form 8655 may need to be altered to make reference to Form 944 (or the applicable form number of the proposed Employer's Annual Federal Tax Return); or alternately to make reference to Form 94X-series returns or some other reference to all employment tax returns.

The RAF system may need a new module to indicate 944 authority. Hopefully, employers could indicate both 941 and 944 (or generically Form 94X-series returns or some other reference to all employment tax returns), because an employer may shift in and out of the annual filing requirement. It would otherwise be costly and burdensome have to execute a new Form 8655 every time an employer's filing requirement changed.

Thank you for this opportunity to comment on IRS' plans for a new annual filing and payment schedule. Please let us know if you have any questions.

Sincerely,



Pete Isberg
National Payroll Reporting Consortium