



National Payroll Reporting Consortium

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January 13, 2011

Ms. Erica Von Nessen
Executive Director's Office
Department of Employment and Workforce
1550 Gadsden St.
Columbia, SC 29202

Dear Ms. Von Nessen:

We are writing in response to the DEW News Release of December 23, 2010, concerning proposed agency changes for 2011, and in particular the proposed due date change for wage and contribution reports to the 15th day after the end of the quarter.

The National Payroll Reporting Consortium (NPRC) is a non-profit trade association whose member organizations provide payroll processing and related services, including electronic filing of quarterly UI wage and tax reports, to over 1.4 million employers nationwide, covering over one-third of the private sector work force. Payroll service providers serve an important role in our nation's tax collection system as a conduit between employers and government authorities, improving the efficiency of tax collection through electronic filing and improving compliance.

NPRC members work closely with individual State Workforce Agencies, USDOL and organizations such as NASWA and UWC to understand the Unemployment Insurance (UI) program, and the pressures that states face in administering Unemployment Insurance with ever-tightening budgets. We understand the implications of the federal "UI Modernization" program, and that Alternate Base Periods (ABPs) are needed to enable claimants with recent earnings to qualify for benefits.

Alternate Base Periods were adopted in about nineteen states in the 1990s, and more recently in another twenty-two states, in response to the federal UI Modernization incentives. As noted in the DEW news release, adoption of an ABP makes the wage reporting systems less effective. Prior to the Modernization effort, most states defined their base periods as "the first 4 of the last 5 completed calendar quarters," which provided sufficient time for wage records to be processed and updated for automated retrieval. ABPs consider more recent wages, which may require manual verification with the employer. South Carolina legislation effective in January establishes an ABP of the four most recently completed calendar quarters before the individual's benefit year.

Many states have explored whether wage and contribution report deadlines could be accelerated, and other measures to hasten the availability of wage records for UI claim administration. The ability of employers to comply with accelerated due dates was the subject of a number of studies sponsored by the U.S. Department of Labor (USDOL) and other organizations that have advocated for the Alternate Base Period. The most thorough of



them was published by Planmatics¹ in 1997. The study concluded that *“only 59% of employers can report wages earlier than the last day of the month, and only 45% can report by the 15th of the month.”*

This is consistent with the experience in Massachusetts, which is the only state to enact legislation requiring employers to report by the 15th in order to facilitate administration of their alternate base period. The law was repealed after a short time because most employers could not meet the deadline. In total, more than forty states have now considered the question of how to accelerate wage record data from employers to accommodate the ABP. None of them require wage reporting by the 15th. With only one exception, every state’s wage reporting deadline is either the 30th or last day of the month following the quarter.

The issue is not a matter of cost or willingness. It would require sweeping revisions to a huge body of federal and state laws which have defined the systems that have evolved to administer payroll and employment related reporting. At the risk of oversimplifying the matter, one of the driving factors is that all payroll wage and tax reporting is based on when wages are paid, or made available to the worker. Most of this is composed of cash wages, but there is a broad array of benefits and other noncash compensation, including compensation managed by third parties, which is not available to the employer until after the end of each calendar quarter. It must be compiled after the last day of the quarter, and then communicated to employers for inclusion in the prior quarter’s payroll reports. In certain arrangements, such as third party sick pay, the carriers are by law permitted to provide the information attributable to the prior quarter as late as the 15th of the following month.

Payroll is also subject to a significant volume of adjustments, as non cash benefits and other compensation is reported; reports are submitted by employees as to tips received; personal use of company cars, etc.; voided checks are canceled and other accounting reconciliation activity identifies the need for adjustments. Payroll service providers generally permit client employers to provide final data by the 15th of the following month to permit clients time to post such adjustments and reconcile their data prior to submission.

One NPRC member conducted a statistical study of the timing of employer submissions of prior quarter payroll files following the end of the quarter. A significant percentage of employers who close their quarterly payroll files subsequently have to reopen them to make additional adjustments. The study found that some six to twelve percent of employers had to adjust and “re-close” their quarterly payroll summaries up until the 15th of the following month. This implies that a wage reporting deadline of the 15th would multiply the volume of wage record amendments by as much as tenfold.

After final payroll data is summarized, it must be formatted and edited to comply with each state’s wage report filing requirements. This must be performed centrally in order to comply with state restrictions. For example, employers with multiple worksites in South Carolina might otherwise report more than one wage record for the same person who happened to work in more than one location. There are many other functions and processes that occur behind the scenes to produce acceptable wage reports, all of which require time.

¹ Citation withheld pending permission of the U.S. Department of Labor.



More recently, the National Employment Law Project² (NELP) studied ABPs and alternatives to accelerate availability of the most recent employment and earnings data from employers. NELP noted the significant administrative workload associated with ABPs: *“Computer systems must be reprogrammed, and protocols must be established to track down wages that are not available in the computer system at the time of the claim.”* NELP’s analysis and subsequent testimony in other states recommend, as the most promising solution, broadening electronic data reporting requirements, and predicted electronic reporting would enable states to streamline their processes. One participating state reported that electronic wage records are available for claims within two weeks after they are received. The NELP study did not recommend adopting an earlier deadline for wage reports.

We believe that current technologies have improved since even six years ago: On January 11, 2011, Massachusetts Department of Unemployment Assistance officials said that wage records are available two days after receipt in their new “QUEST” electronic filing system. Paper wage reports used to take a month to process.

In summary, the proposed change to the due date for wage reports would be prohibitively costly for employers, and infeasible for many businesses. However, there are several other alternative measures that would substantially reduce the workload associated with the ABP.

Recommendations

1. We strongly recommend against adoption of a mandatory earlier reporting deadline. DEW could, as suggested in the press release, invite voluntary early filing for those employers who are able to do so.
2. The Department may wish to review its electronic filing systems to ensure that they are available immediately following each quarter, and are easy to use.
3. Consider electronic filing requirements being used in other states as a guideline. Over the past ten years there have been substantial improvements and cost reductions in electronic filing software and agency website capabilities, so electronic reporting may no longer represent a significant burden. Currently South Carolina requires employers with one hundred or more employees to report wages electronically. In contrast, Florida and Kentucky require electronic wage reporting from employers with just ten employees. The Georgia Department of Revenue requires electronic filing from employers who make sales or withholding tax payments of just \$500. Nebraska requires e-filing of wage reports from employers who pay over \$100K in annual wages. New Jersey, Minnesota and Massachusetts require electronic wage reporting from every employer, with even a single employee.
4. NELP also suggests that wage requests and affidavits will be necessary to administer ABPs. Wage affidavits may include evidence of recent earnings from the claimant, such as pay stubs and W-2s.

² Andrew Stettner, [Clearing The Path To Unemployment Insurance For Low-Wage Workers: An Analysis Of Alternative Base Period Implementation](#), August 2005. National Employment Law Project Center for Economic and Policy Research



5. UI SIDES (Separation Information Data Exchange System) is also a promising new alternative to which will soon be capable of verifying recent wage information with employers electronically on an ad hoc basis. William Sharpe and Corey Pitts of DEW are familiar with the UI SIDES project, which recently approved a data format standard for wage verification.

We appreciate this opportunity to provide feedback to the Department on the proposed changes, and look forward to discussing this further at the public hearing on January 28th.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pete Isberg", is positioned to the right of the word "Sincerely,".

Pete Isberg
National Payroll Reporting Consortium, Inc.