

IRS Proposes New Regulations for Third-Party Payroll Providers

by Frank L. Brunetti on March 4, 2013

When it come to ensuring Social Security, Medicare and federal income taxes are deducted from workers' paychecks and contractors are classified correctly, existing tax law places these obligations solely on employers. However, new guidelines proposed by the Internal Revenue Service may shift some of the liability onto third-party payroll providers, employer organizations and employee leasing companies when violations occur.

The IRS determined scenarios in which a payer who is not a direct employer may - for tax purposes - be considered an agent of the employer, and therefore face some tax liability when it comes to employment taxes. For example, the proposed regulations assert that a payer can be designated as an agent of an employer in regards to employment taxes when they've entered into a written or oral agreement to perform the employer's employment tax obligation, according to Business Finance Magazine. The following conditions must be met for this agreement to be valid: The payer must verify that it is the employer or co-employer of individuals performing services for the client; compensates the individuals for services they performed for the company, and assumes responsibility to collect, report, and pay employment taxes.

When these conditions are met, the IRS proposes that liability for employment taxes must also apply to third-party payroll services, not solely the company that retains workers. The only exception to these proposals states that payers may not fall into this category when filing taxes for a company under its Employer Identification Number (EIN).

Companies face a great deal of tax liability when it comes to managing payroll and independent contractors, even when service providers are involved. Therefore, it can be helpful for companies to consult with professionals to better educate themselves on their rights, responsibilities and liabilities under federal tax law.