

Department of Accounts

Payroll Bulletin

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The Payroll Bulletin is published periodically to provide CIPPS agencies guidance regarding Commonwealth payroll operations. If you have any questions about the bulletin, please call Cathy McGill at (804) 371-7800 or Email at cathy.mcgill@doa.virginia.gov

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New ACH Requirements – International ACH Transactions

NACHA Regulation Changes

There has recently been a change in the banking industry rules (NACHA Operating Rules) that employers must adhere to when remitting payments to employees via Direct Deposit. The new rules require the employer, as the originator of electronic payments made through the ACH network, to identify payments made to payees where **the entire payment amount is subsequently transferred to a foreign bank account**. These rules are referred to as “International ACH Transaction (IAT) rules” and are pursuant to requirements of the Office of Foreign Assets Control (OFAC).

Know Your Employee – Due Diligence Obligation

The NACHA Guidelines indicate that **all** parties involved in an ACH transaction have an obligation to “know their customer.” NACHA acknowledges (partly because of bank privacy regulations) that it is not always possible for the employer, functioning as an originating company, to know whether funds remitted to a payee’s designated financial institution are subsequently forwarded to a foreign bank. In most cases, however, the employing agency is in the best position to know if a payment to an employee may be forwarded to a financial institution outside the territorial jurisdiction of the U. S. The territorial jurisdiction of the United States includes all 50 states, U. S. territories, U. S. military bases and U. S. Embassies in foreign countries.

General information known by the agency (i.e., employee has a foreign address) does not necessarily provide sufficient reason to designate payments to the employee as international transactions on its own, but it can be enough to prompt the agency to make a due diligence inquiry of the employee in order to comply with the IAT rules and applicable U.S. Law.

New ACH Requirements – International ACH Transactions, continued

Employer Responsibility All employees must be notified of the new rules. Specific inquiries regarding the final settlement of electronic payments made to them must be made of employees who meet certain criteria to determine if these employees really are IAT payees.

For employees who are identified as IAT payees, the State is required to submit all future electronic payments to the employee's bank in a special format or remit the payment to the employee via paper check. As CIPPS cannot accommodate the required ACH format for IAT transactions, those individuals identified as having IAT qualifying payments must discontinue the related direct deposit, and where that direct deposit amount is for the net pay, revert to receiving a paper check.

Notification to Employees Each agency is required to provide the following notification to all employees:

“There have been recent changes to the payment system rules for direct deposit of payroll. If you receive your pay via direct deposit at a U.S. bank and then have the **entire** pay amount forwarded by “*standing order*” to a bank in another country, please advise the payroll department immediately at (provide contact information). This notification is being made in response to a request from the Federal Office of Foreign Asset Control in support of U.S.C. Title 50, War and National Defense. Note: A dishonest or misleading response to this notification may be considered falsification of records under Standards of Conduct.”

Further Inquiries of Employees If any affirmative responses are received, further inquiries must be made of the employee. Further inquiries must also be made of all employees who have a permanent residence that is not in the territorial jurisdiction of the United States, regardless of whether they respond or not. Employees subject to further inquiries must provide, in writing, answers to the following questions.

- ✓ Do you have the **entire** amount of your direct deposit, fixed or variable, subsequently forwarded to a financial institution outside of the territorial jurisdiction of the United States? (Partial transfer of your payroll direct deposit for items such as providing spending money to a child studying abroad does not qualify you as an IAT payee for payroll purposes.)
- ✓ Is the arrangement to forward your payroll funds pre-established or “*in standing order*” with the domestic financial institution? (Ad hoc or occasional upon request transfers of funds do not qualify you as an IAT payee for payroll purposes).
- ✓ If ‘Yes’ to either of these questions, identify the specific direct deposit deduction (bank and account number) involved.

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New ACH Requirements – International ACH Transactions, continued

Further Inquiries of Employees, continued

DOA must be informed of any individual (name and employee number) who answers yes to either of the questions above. (Simply email Cathy McGill or Lora George.) The direct deposit deduction for which an answer of ‘Yes’ is received must be immediately deactivated by the line agency.

For example, John Doe has a fixed savings direct deposit going to Bank of America (B of A) and the net (variable) payroll amount going to Wachovia. He has a pre-established arrangement at B of A to forward the fixed amount to his parent’s account in London each time a deposit is made. The fixed direct deposit going to B of A will have to be deactivated, but the variable (net) amount going to Wachovia can remain active.

Future Direct Deposit Enrollees

Effective immediately employees newly enrolling in direct deposit must affirm on the Direct Deposit Authorization form that the entire amount of the direct deposit will not be forwarded to a bank in another country. The form will also include notification that employees are required to inform the employing agency should the employee’s payment status change at any time in the future. The Direct Deposit Authorization Form has been modified to include these changes.

Updated Direct Deposit Mandate Global Exceptions

Modification to Direct Deposit Mandate Global Exceptions

In compliance with NACHA regulations and in support of Federal initiatives the global exceptions list has been expanded to include IAT payees. Listed below are the only *global* exceptions to the direct deposit mandate.

- ✓ Wage employees who are unbanked and will only be employed one or two pay cycles.
 - ✓ Employees under the age of 18 cannot apply for the paycard nor open a bank account without a co-owner and therefore can be excepted until they reach the age of 18.
 - ✓ Employees switching financial institutions can receive a pay check for one to two periods while establishing a new account.
 - ✓ Direct deposit, including the paycard, cannot be enforced for those employees without an SSN and can be excepted until the SSN is obtained.
 - ✓ Third party checks for miscellaneous deductions, taxes, garnishments, etc. are not included in the mandate as CIPPS does not have the capability of creating electronic transmissions of those payments.
 - ✓ Federal Work Study students are exempted from the mandate due to 34 CFR 675.16 which specifically prohibits employers from requiring FWS students to participate in direct deposit.
 - ✓ *Employees who have the direct deposit amount of pay subsequently transferred in its entirety based on a standing order to an international account.*
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