

International assignment perspectives — *special alert*

Complexities of payroll reporting — Internal Revenue Code Section 6694

With all the buzz around our *International Assignment (IA) Perspectives* journal, we decided to check in with our authors to see if they had any specific updates or fresh insights.

This month, *IA Perspectives* caught up with Mitch Schuckman, Larry Stern and Shawn McGrath, authors of *The Complexities of Payroll Reporting*. Our timing couldn't have been better. It was clear to our authors that one issue keeping payroll reporting on the minds *IA Perspectives'* readers is the new legislation, under Internal Revenue Code Section 6694, which imposes penalties on tax return preparers who understate taxpayer liability on tax returns.

This legislation, effective for tax returns due after January 1, 2008, increases the link between the responsibility of the preparer and the responsibility of the employer for payroll reporting purposes.

The new law states that a position taken on the tax return must meet the “more likely than not” standard, which means that if the IRS were to review the position, it would have a greater than 50 percent likelihood of being sustained on its merits. This refers to the level of confidence a preparer must have for the position to be taken without having to disclose it on the tax return. “Under the old law, the preparer had to believe that the position had a ‘realistic possibility of success,’ which meant that there had to be at least a 33 percent likelihood that it would be sustained on its merits, if analyzed by the tax authorities,” said Mr. Schuckman. Clearly, this places much more responsibility for the accuracy of the return on the preparer.

With this increased link between employers and the tax return preparer in mind, employers need to pay special attention to ensure that they address areas of compensation that either may not have been previously addressed or where they were determined to meet the “realistic possibility of success” but not the “more likely than not” standard. Two possible examples are the

inclusion of the “fair market value” of the tax preparation services offered/reimbursed by the employers to their employees (expatriates and domestics, alike) and reporting as income of foreign nonqualified (under US law) pension plan benefits. Mr. Stern saw a marked increase in the number of clients that asked PwC to review their compensation breakdowns before year end 2007. “We set aggressive timetables for our clients. We reviewed compensation in December and earlier this month to make sure that, in accordance with 6694, the right amounts were included in income and payrolls. This will allow our clients to issue W2s by the end of January, as required,” said Mr. Stern.

PwC's Global Data Collect proprietary technology plays a critical role in ensuring the accuracy of our client's compensation reviews. The automated process helps clients that subscribe to the service identify potential reporting problems by compiling and analyzing expatriate compensation to determine where a client's key risk areas are. “The new law was the impetus for us to enhance our existing system. We created tools to help audit all forms of compensation data, including those impacted by 6694, so that nothing goes unreported. Our technology is invaluable for employers with many expatriates because it helps to scan large amounts of data to identify potential missing, duplicate or inaccurate payments,” said Mr. McGrath

As employers enter the age of 6694 compliance, it is important that they work closely with their tax service providers to ensure that the increased standard required under 6694 is met; otherwise, there may be delays or restatements necessary for their W-2s and/or on their expats' tax returns. Employers undoubtedly will want to improve the accuracy of their compensation reporting by taking advantage of electronic analyses to quickly and accurately pinpoint key risk areas.

Consult your tax adviser for a full evaluation of your company's situation.