

Business processes and considerations in meeting employee wage reporting deadlines

Prepared for the National Payroll
Reporting Consortium, Inc.

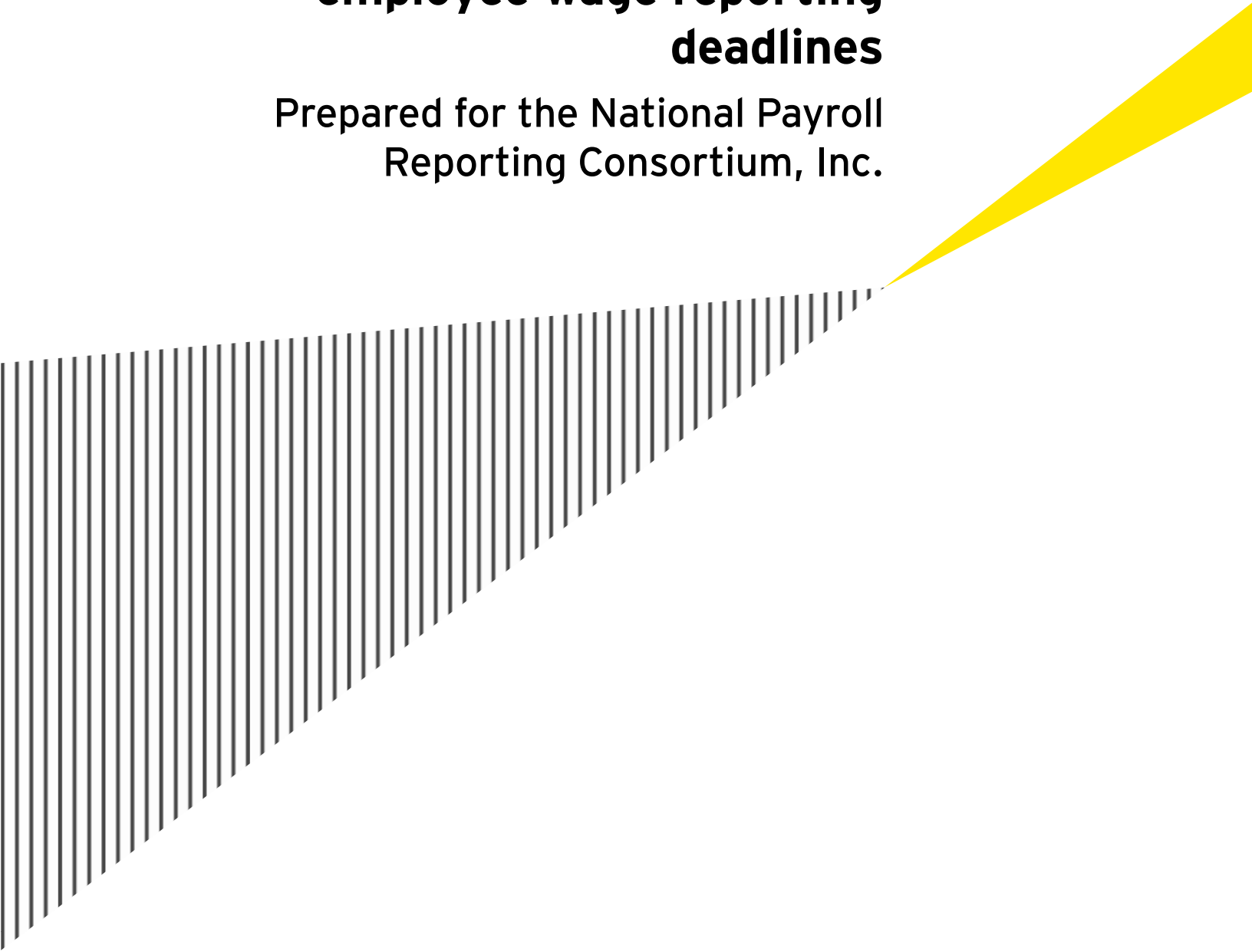


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Executive summary

The National Payroll Reporting Consortium, Inc. (NPRC) engaged Ernst & Young LLP to provide an independent and objective analysis of the current level of difficulty employers face in meeting their quarterly and annual wage and tax reporting obligations, the extent to which electronic reporting systems have reduced or increased these challenges, and options governments might consider to improve both the speed and accuracy of wage and tax return filings. Our findings are based on an analysis of the current quarterly state unemployment insurance (UI) wage and contribution return and annual Form W-2 filing requirements, as well as our experience in assisting clients in meeting these obligations.

Key findings

- ▶ **Earlier filing due dates.** The number of states using the alternative base period (ABP) for computing unemployment insurance benefits increased from 20 to 42 from 2008 to March 2011, an increase of more than 100%. It is likely that with a greater number of states using the ABP, a few of them, such as South Carolina, will consider accelerating the wage reporting due dates, perhaps by as many as 15 days.

The lack of conformity in jurisdictional requirements governing wage and tax reporting and the increased variables in employee compensation packages challenge businesses to timely and accurately meet the existing wage and tax return deadlines. Absent uniformity in the definition of taxable wages and in the form and format used to report them, historical and current analysis of federal and state UI and Form W-2 reporting requirements demonstrate that businesses require at least one month to meet their quarter and annual reporting obligations. To prevent a large volume of amended returns, businesses also require a reasonable amount of time for employees to review their Forms W-2 before jurisdictional copies are filed.

Employees receive numerous forms of compensation in addition to their regular salaries, with data concerning their taxable value gathered from internal and external sources from the date of the last regular wage payment and through the third week of January. A large corporate employer may have 50 or more items of compensation that are required to be processed and posted within this short time frame. To require that employers report their wage and tax information sooner than one month following the close of a quarter or annual reporting period generally would be forcing a trade of speed for accuracy. This is not to say that a slight alteration in some of the filing due dates does not warrant further investigation, as explained below.

- ▶ *UI reporting.* The states allow one month following the close of the quarter to file UI returns and wage reports with the exception of New Jersey allowing only 30 days and Michigan 25. Further investigation should be conducted to determine if businesses can file all UI wage reports a few days before the end of the month following the close of the quarter without jeopardizing accuracy.
- ▶ *Form W-2 reporting.* More than half of the states requiring the filing of Forms W-2 provide that both paper and electronic/magnetic media files of Forms W-2 be filed by February 28. Federal Forms W-2 are due on February 28 only if filed on paper, otherwise the due date is March 31. Our analysis indicates that employer W-2 filing deadlines (both paper and electronic) could be shifted to February 28, generally without significant cost or difficulty.
- ▶ *Electronic reporting.* Making broader use of paperless reporting systems is one alternative for achieving more rapid governmental access to employee wage and tax detail. An analysis of state UI reporting requirements shows a trend in reducing the threshold at which electronic/magnetic media filing is required, with seven states currently mandating paperless filing for all employers. A similar, yet not as drastic, trend is reflected in the states' Form W-2 filing requirements, with 14 states setting the threshold for paperless filing at 50 or fewer forms.

As jurisdictions contemplate reducing electronic reporting thresholds, they should keep in mind that electronic filing systems can significantly delay reporting by multi-jurisdictional employers if they are too difficult or restrictive to access and if they reject files that contain other than "fatal errors."

Other options for consideration

- ▶ Allow CD or paper files in event of system outage or delays.
- ▶ Make paper copy of return or list of required data elements and specifications easily accessible on the jurisdiction's website.
- ▶ Where possible, adopt uniform reporting standards such as EFW2 or NASWA.
- ▶ Publish clear administrative guidance that employers can easily reference in determining the types of compensatory amounts that are included in taxable wages. Refer to California's guidance on taxable wages for unemployment and state income tax purposes (California Pub. DE44) and Pennsylvania's Form W-2 reporting guidance (Pennsylvania Rev-415 AS) as models.
- ▶ Expand the application of the special accounting rule (*IRS Announcement 85-113, 1985-31 IRB 31*) to include all non-cash fringe benefits and other similar compensatory items where it is reasonable to expect delay in obtaining the correct wage amount. Additionally, regulations are necessary to provide that an employer should not be required to withhold income and employment tax from fringe benefits received by December 31 for which it is impossible to ascertain the fair market value as of that day.
- ▶ Clarify that third-party payers of sick pay are required to issue statements to employers that are consistent with their clients' deposit obligations (e.g., twice per week for semiweekly depositors).
- ▶ Add a reconciliation worksheet to return instructions. For instance, add to the Form 941 and Form 941-X instructions a reconciliation worksheet for Social Security/Medicare wages and federal income tax withheld as reported on Forms W-2/W-2c (similar to the Form 940 worksheet included in Form 940 instructions).
- ▶ Offer employer incentives for filing returns earlier and/or electronically. For instance, offer electronic filers additional features such as confirmation of filing receipt and electronic account access.
- ▶ Further investigation is needed to determine options for curtailing W-2 income tax refund fraud that will not unreasonably add to the existing employment tax filing costs of businesses and taxing jurisdictions.

For a copy of the complete report go to www.nprc-inc.org/govc.html.

Section 1: Introduction

Since 1937, when the Social Security Act of 1935 first required that states collect unemployment insurance (UI) contributions from employers, most U.S. businesses have been required to provide employee wage information for state UI purposes. The number of governmental agencies requiring wage reporting dramatically increased in the years following 1943, when federal legislation requiring income tax withholding and Form W-2 reporting quickly became a state and local requirement as well. Now, close to 70 years later, both governmental reliance on employer wage reporting and the complexity in compiling this data have significantly increased.

Table A: Sample of current uses of employer-provided employee earnings and tax information

Governmental agency	Use of data	Source of data
Social Security Administration	Benefits calculation and verification	Annual Form W-2/National New Hire Registry
State workforce agencies	Unemployment insurance benefits calculation and eligibility verification	Quarterly UI wage report
Internal Revenue Service	Federal income tax enforcement (income matching programs)	Annual Form W-2
State (and local) income tax authorities	State (and local) income tax enforcement; tax levies and other "warrants" for wage attachment	Annual Form W-2/quarterly UI wage report
Title IV-D state family support enforcement agencies	Enforcement of family and medical support garnishment orders	Quarterly UI wage report/National New Hire Registry

In recent years, there has been heightened interest in accelerating the speed at which governmental agencies receive employee wage detail. Currently, there are two primary sources of employer-reported employee earnings information: the UI wage report and the Form W-2. With limited exceptions, UI wage reports are filed at the end of the month following the close of the quarter in which wages were paid. Federal Forms W-2 are filed annually on March 31. The due date for paper filers is the last day of February. If the due date falls on a Saturday, Sunday or federal legal holiday, the due date is the next business day. State Form W-2 filing due dates vary. (See Appendix C on page 41.) For quarterly UI reporting purposes, the time lapse between the quarter in which wages are paid and when they are reported is generally one month. For federal Form W-2 reporting purposes, this time lapse increases to three months (two months for paper filers).

There are a variety of reasons why governmental agencies would like to receive wage information sooner; however, two emerge as the most compelling:

- (1) prevention of income tax refund fraud involving phony Forms W-2 and
- (2) accurate processing of unemployment benefit claims under the alternative base period (ABP).

There are a variety of reasons why governmental agencies would like to receive wage information sooner; however, two emerge as the most compelling: (1) prevention of income tax refund fraud involving phony Forms W-2 and (2) accurate processing of unemployment benefit claims under the alternative base period (ABP).

1-A: Prevention of income tax fraud

Because the Form W-2 includes information that can trigger federal, state and local income tax refunds, it is vulnerable to fraud. Electronic filing (e-file) capabilities have increased the opportunities for criminals to obtain cash more quickly by fraudulently altering the wage/withholding tax information on existing Forms W-2 or by creating phony forms used in the e-file process.

Currently, employees are required to receive the federal copy of the Form W-2 no later than January 31, while the IRS is not required to receive the Forms W-2 from employers until the end of February, or the end of March for electronically filed copies. With processing time, this leaves two to six months that the IRS is unable to match the Forms W-2 presented for refund claims against the Forms W-2 filed by the employer. Ideally, if the IRS were to have access to the employers' Form W-2 files at the same time that employees received their copies (i.e., January 31), it would be possible to identify and prevent a significant number of fraudulent refund claims based on phony Form W-2 data. IRS Commissioner Doug Shulman recently announced the agency's intention to study and reconsider deadlines for information reporting (1099-series and Forms W-2), with the intended goal being that such reports should optimally be on file with the IRS *during* the tax season rather than after the fact.

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1-B: SUI benefits and the alternative base period

All states require a worker to have earned a certain amount of wages or to have worked for a certain period of time (or both) to be monetarily eligible to receive unemployment compensation benefits. Generally, an individual's wages are drawn from a one-year period (four calendar quarters) to calculate eligibility. The standard base period (SBP) used by all the states (except Massachusetts, which uses the last four completed calendar quarters) to determine claimant eligibility for unemployment benefits is the first four of the last five completed calendar quarters.

Example 1: The state uses the SBP method. An individual in this state files a claim for unemployment benefits in February 2011 (first quarter 2011). The SBP is the fourth quarter 2009 through the third quarter 2010. The fourth quarter 2010, the "lag" quarter, and the first quarter 2011 are not used in the eligibility calculation. The state uses the wages reported by the claimant's employer(s) during the four-quarter time period to determine if the claimant met minimum earnings requirements to be eligible for unemployment benefits.

Under the American Recovery and Reinvestment Act of 2009 (ARRA), incentive funding was available to states that enacted the Unemployment Modernization Provisions of the Act. One-third of the incentive funding was offered to any state that adopts the ABP.

Under the ABP, the last four completed calendar quarters are used to determine claimant eligibility for benefits.

Example 2: Assume the same facts as example 1, except the state uses the ABP. The base period that is used to determine the claimant's unemployment benefits for February 2011 are the four quarters of 2010.

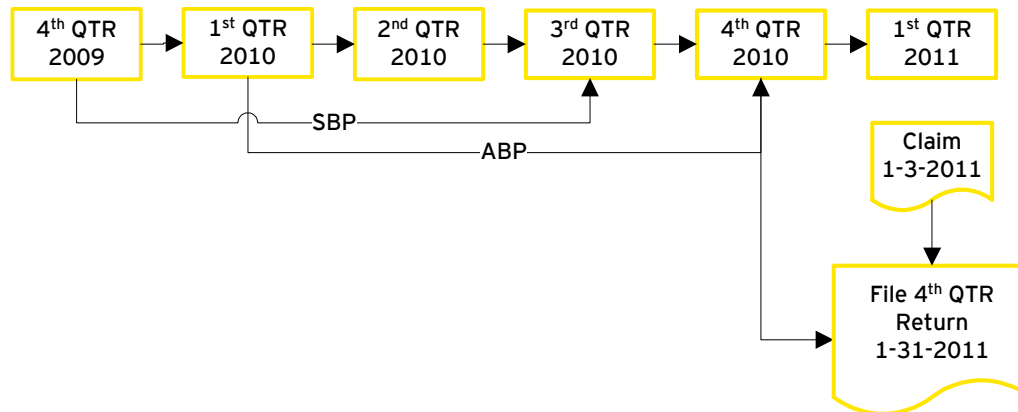
By using the most recently completed calendar quarter in the eligibility calculation, claimants' most recent work history is used. Depending on the date a claim is made for benefits, the state may not yet have the quarterly wage data necessary to compute benefits under the ABP. For instance, if an employee filed for benefits on January 3, 2011, the 2010 fourth-quarter return was not due until January 31, 2011, requiring the state to obtain the wage

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information from the employer prior to the due date for filing of the 2010 fourth-quarter wage detail. (See Figure 1 below.)

Figure 1: Standard (SBP) and alternative base period (ABP) illustrated



To avoid delays and additional administrative burden for government and employers, some states using the ABP would like to require that quarterly wage information be provided sooner. For example, South Carolina recently hoped to address its ABP timing concerns by requesting comment on accelerating the due date for quarterly wage reports from the end of the month following the quarter wages are paid to the 15th of the month following the close of the quarter. Thus far, compliance with the earlier due date of the 15th of the month is voluntary for South Carolina employers. Under a study commissioned by the U.S. Department of Labor in 1997, Planmatics Inc. reported that Massachusetts was the only state that had accelerated its UI wage reporting deadline to the 15th of the month. Since that report, Massachusetts now requires wage reports at the end of the month following the close of the quarter. In fact, only two states currently require UI wage reports before the end of the month following the close of the quarter:

- ▶ Michigan – the 25th day following the quarter wages are paid (*MICH. ADMIN. CODE R 421.121 (2011)*)
- ▶ New Jersey – the 30th day following the quarter wages are paid (*New Jersey Employer SUI Handbook, p. 1*)

According to the National Employment Law Project (NELP), only 20 states plus the District of Columbia had an ABP prior to enactment of the ARRA. The UWC reports that as of March 2011, only 11 states had yet to enact the ABP. UWC cautions that some of the states' ABP provisions may not yet be in effect.

In other words, the number of states having an ABP increased from 20 to 42 from 2008 to March 2011, an increase of more than 100%. It is likely that with a greater number of states using the ABP, a few of them, like South Carolina, will give consideration to accelerating their wage reporting due dates, perhaps by as many as 15 days. (See Appendix A on page 37 for detailed information concerning state adoption of the ABP.)

It is likely that with a greater number of states using the ABP, a few of them, like South Carolina, will give consideration to accelerating their wage reporting due dates, perhaps by as many as 15 days.

1-C: The focus of this report

In this report, we will explore the processes and timelines that businesses must generally follow in meeting the current quarterly and annual employee earnings and tax information filing requirements, common challenges businesses face in meeting these deadlines, the impact to employers of accelerating current filing deadlines, and

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policy considerations that may facilitate accelerated access to accurate employee wage data. This report will also preliminarily assess whether recent advances in electronic filing technologies adopted by state workforce and revenue agencies have tended to facilitate, or complicate, compliance with existing filing deadlines. In other words, do the new electronic filing systems provide an environment in which employers can report employee earnings information sooner? Or have they added new barriers and workload in meeting filing deadlines?

Section 2: Business processes in meeting wage reporting deadlines

Wage reporting systems rely on the accuracy of a number of data elements, most of which are dynamic. Further, employers are ultimately liable for the accuracy of each of these elements whether or not the task of payroll and employment tax is outsourced to a third party. The primary processes involved in wage reporting are:

- ▶ Employee data maintenance
- ▶ Pay and deduction configuration
- ▶ Tax setup
- ▶ Payroll data
- ▶ Third-party interfaces and intercompany wage transfers
- ▶ Reconciliation
- ▶ Tax filing

2-A: Employee data maintenance

The accuracy of wage reporting depends on the correct identification of the employee's resident and work location(s). Also required of employees are federal, state and local withholding allowance and/or tax exemption certificates that are necessary for the employer to compute the correct amount of income tax withholding. If the employee is subject to local tax, additional setup information is required of employees and employers, namely, geocoding that determines the location of the employee's resident and work addresses in relationship to the applicable local taxing jurisdictions.

Work location data can be the most challenging to maintain as some employees may frequently change work location or may be assigned to multiple work locations within a reporting period.

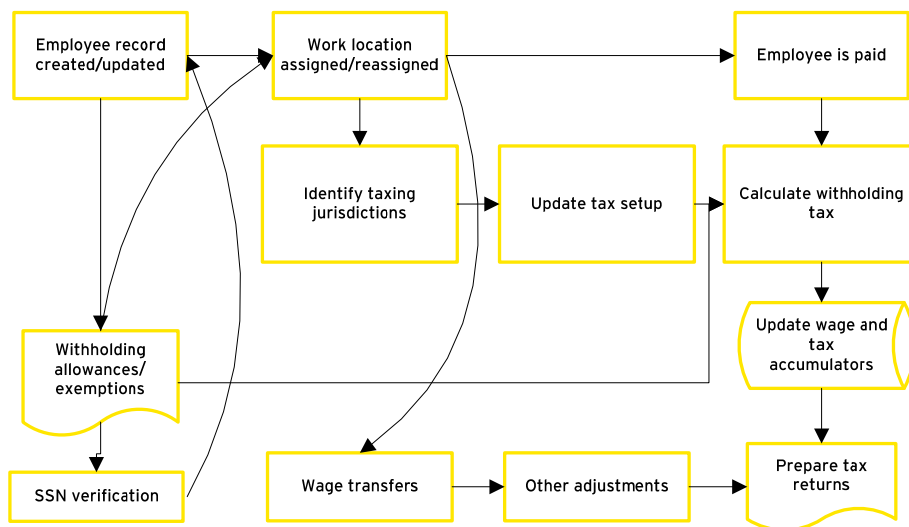
- ▶ *Temporary and multiple work locations.* Work location data can be the most challenging to maintain as some employees may frequently change work location or may be assigned to multiple work locations within a reporting period. If the payroll system is unable to allocate wages to multiple work locations within a single payroll period, it may be necessary for the employer to make manual adjustments to the employee's state and local wages and taxes withheld prior to the close of the quarter or year. Additionally, states are increasingly establishing and enforcing withholding and tax reporting obligations on nonresident employees and their employers for brief temporary work assignments. Thus, employers with workers who travel must often produce many separate Forms W-2 to reflect earnings and taxes attributable to each state and locality in which an employee worked during the year. Further, some companies "reimburse" employees for the nonresident taxes they incur for temporary work assignments, a process that involves time-consuming gross-up calculations that are often performed at the end of the month, quarter or year. (See Table H on page 25.)
- ▶ *Wage transfers.* Wage transfers further complicate the reporting process. For UI purposes, all states except Louisiana and Minnesota allow the employer to transfer year-to-date UI taxable wages when an employee of an employer transfers to another state. (*Louisiana HB 482, Act 239, 2005; Minnesota Law, 268.051 Subd.2 (b)(d), 268.051 Subd.5, 268.051 Subd.5 (b), 268.051 Subd.8, and 116L.20*) In the event of a merger or acquisition, a transfer of wages paid by the predecessor to the successor may also be allowed for federal and

state withholding and UI purposes. Some state UI reporting systems have difficulty correctly calculating UI taxable wages where wages have transferred from another state or another employer.

- Social security number (SSN) verification.** Most jurisdictions require the use of a valid name and SSN combination and may impose penalties for missing SSNs or name and SSN mismatches. Further, some employers may be required to use e-Verify, which performs both SSN/name and I-9 verification. For this reason, many employers routinely validate SSNs through the Social Security Administration (SSA) or the Department of Homeland Security's e-Verify system. Any number of circumstances could result in a mismatch between an employee's name and SSN (e.g., marriage, divorce or a newly hired nonresident alien waiting for approval of SSN application). If a governmental wage reporting system requires a valid name and SSN combination (i.e., disallows zeros), employers are challenged to report those data in a timely manner.

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Figure 2: Overview of employee data requirements for wage reporting



2-B: Pay and deduction code configuration

Each taxing jurisdiction maintains its own statutory or regulatory definition of “taxable wages” and “reportable wages,” sometimes requiring special reporting, for instance, box 12 of Form W-2. For this reason, employers need to accurately identify each type of compensation provided to employees and correctly map each item of compensation to each jurisdiction’s wage definition and reporting requirements. In some instances, deductions may also need to be considered when arriving at taxable wages and their reporting requirements. For example, pretax deductions under a cafeteria or transportation fringe benefit plan may need to be included in taxable wages for some jurisdictions, and pretax retirement plan contributions may require special reporting, such as box 12 of Form W-2. Some compensatory items are tax-free up to a prescribed annual limit (e.g., educational assistance), and these limits must also be considered in the configuration. (See Figures 3-A and 3-B on page 9.)

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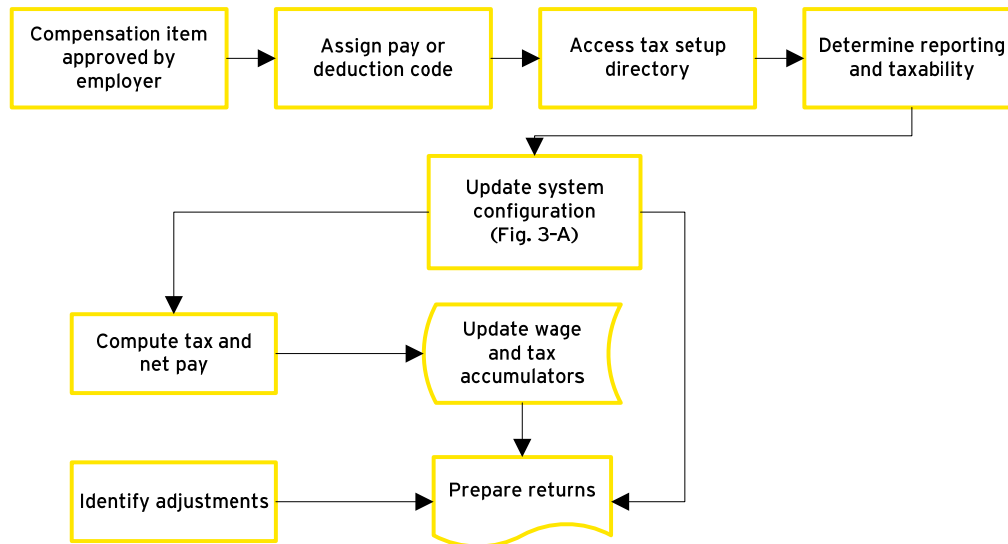
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Example: The employer has employees in Los Angeles and Philadelphia. The employer chooses to add adoption assistance as a pretax option to its cafeteria plan. Shown in Figure 3-A are the federal, state and local parameters that are associated with the adoption assistance pretax deduction code. Figure 3-B illustrates the process involved in establishing and accounting for this benefit on wage and tax returns.

Figure 3-A: Sample tax configuration for adoption assistance pretax

Tax and reporting requirement	Subject	Tax-free limit – 2011	Period
Federal income taxable wages	No	\$13,360	Per adoption
Federal income tax withholding	No	\$13,360	Per adoption
Social Security	Yes	N/A	N/A
Medicare	Yes	N/A	N/A
Form W-2 box 12	Code T	N/A	N/A
California state income taxable wages	No	\$13,360	Per adoption
California state income tax withholding	No	\$13,360	Per adoption
California state unemployment insurance	Yes	N/A	N/A
California disability insurance	Yes	N/A	N/A
Pennsylvania state income taxable wages	Yes	N/A	N/A
Pennsylvania state unemployment insurance	Yes	N/A	N/A
Philadelphia local EIT taxable wages	Yes	N/A	N/A

Figure 3-B: Overview of pay and deduction code configuration in the wage reporting process



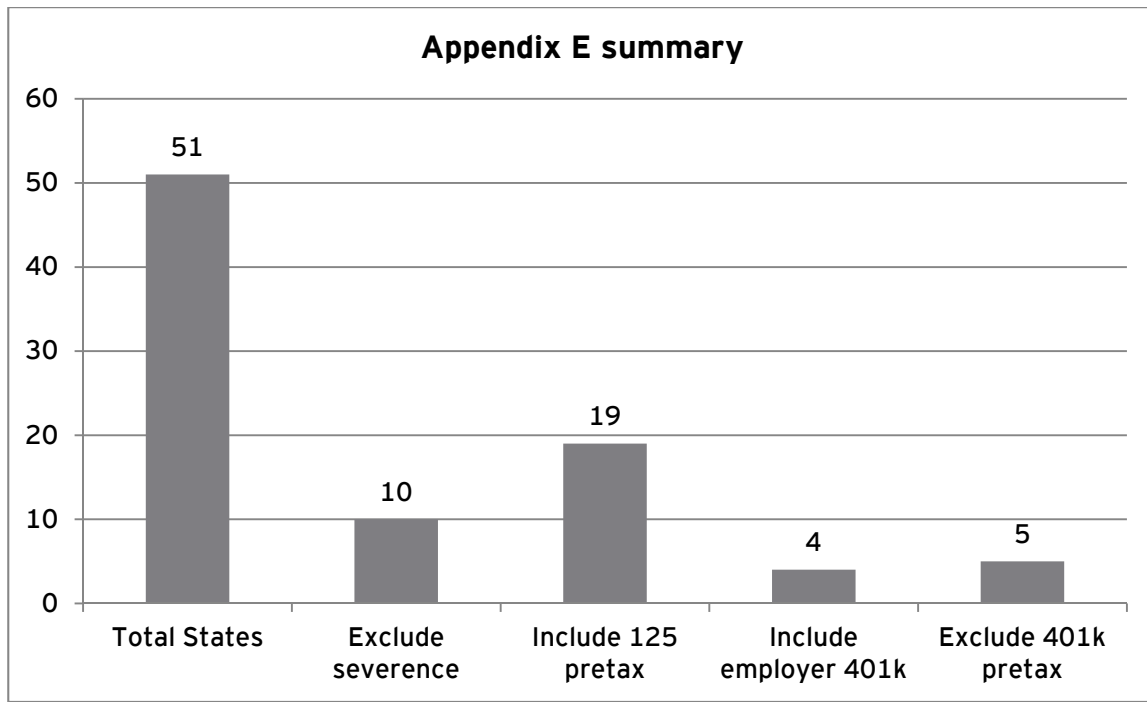
- ▶ *Impact of retroactive legislation.* At certain times, maintaining the pay and deduction configuration can be complicated by retroactive law changes that must be managed on an adjustment basis. For instance, in 2011, a number of states retroactively conformed to the Internal Revenue Code (IRC) for purposes of determining the tax treatment of health insurance provided to adult children through age 26 in 2010. This situation is likely to continue into 2012 and future years as Congress provides for short-term extensions on such expiring provisions as educational assistance. (*Public Law No. 111-312*)
- ▶ *Ambiguity concerning taxation and reporting.* Finally, statutes, regulations and administrative guidelines are sometimes vague concerning the taxability of certain items of compensation. The ambiguity concerning the taxability of compensatory items is particularly prominent in the states' definition of taxable wages for UI purposes. While service providers, software developers and consultants have access to legal professionals to interpret and make determinations, for the average employer, lack of clarity may lead to errors, delays and other problems. This is an area that is easily improved with some focused attention by the taxing jurisdiction. (See Figure 4 on page 11 and Appendix E on page 49 for a sample of state UI taxability variations.)

At certain times, maintaining the pay and deduction configuration can be complicated by retroactive law changes that must be managed on an adjustment basis.

The ambiguity concerning the taxability of compensatory items is particularly prominent in the states' definition of taxable wages for UI purposes.

While service providers, software developers and consultants have access to legal professionals to interpret and make determinations, for the average employer, lack of clarity may lead to errors, delays and other problems. This is an area that is easily improved with some focused attention by the taxing jurisdiction.

Figure 4: SUI wage definition sample variations from federal



2-C: Tax setup

Once employers identify the federal, state, and local taxing jurisdictions that apply to their employees (see Section 2-A on page 7) and have determined the taxability of their compensatory items and how to report them (see Section 2-B on page 8), they must identify the various types of tax payment and reporting obligations that apply in those jurisdictions, the applicable due dates, and the method of reporting (paper, magnetic media, electronic, website). In conjunction with the tax setup are file format specifications (for magnetic media and electronic files), substitute forms and macros to complete them, and queries that mine for data elements, such as date of hire, date of termination, number of hours, etc. that are not contained in the wage and tax accumulators.

- ▶ *Non-uniformity in reporting elements.* Each type of return –withholding tax and UI – generally conforms to a standard set of reporting elements such as employee name, SSN, total taxable wages and tax for the period. Challenges exist in the tax setup process when a jurisdiction requires non-standard reporting elements (e.g., number of hours worked in the reporting period, location or occupation information, availability and/or value of health coverage) as they increase the number of files and databases and the quantity and complexity of queries necessary to generate a return.

For UI reporting purposes, the states shown in Table B below require non-standard data elements for other than combined state income tax and UI reporting purposes. (See Appendix B on page 38 for state detail.)

Table B: UI jurisdictions requiring non-standard reporting elements

Alaska	Ohio
Florida	Oregon
Massachusetts	Pennsylvania
Michigan	Rhode Island
Missouri	Vermont
Nevada	Washington
New Jersey	Wyoming
North Carolina	

- ▶ *Information concerning reporting elements not readily available.* Finally, tax setup is difficult for taxing jurisdictions that do not provide copies of returns or clearly list the required data elements, definitions and related reporting specifications on their websites. This is often the case in jurisdictions that require electronic reporting and wish to discourage erroneous paper filing by eliminating copies of paper returns from their websites. Relying on a state's record layout for purposes of identifying the required reporting elements presents a risk of missing reporting requirements that may cause files to be rejected or amended.

Challenges exist in the tax setup process when a jurisdiction requires non-standard reporting elements (e.g., number of hours worked in the reporting period, location or occupation information, availability and/or value of health coverage) as they increase the number of files and databases and the quantity and complexity of queries necessary to generate a return.

Relying on a state's record layout for purposes of identifying the required reporting elements presents a risk of missing reporting requirements that may cause files to be rejected or amended.

2-D: Payroll data

With limited exception, wages are subject to tax and reporting in the period paid (“constructive receipt”). For instance, wages earned through September 30 but paid on October 1 are reported in the fourth quarter, not the third quarter. Similarly, adjustments such as void checks and wage corrections also must be reflected in the proper reporting period. For example, a void check discovered in the second quarter for wages paid in the first quarter must be reflected as an amendment to the first quarter. When payroll data is not correctly posted to the proper period, amended returns must generally be filed. Amended returns are one of the primary causes of reconciliation-related notices and assessments. (See Section 2-F on page 15 for more information concerning amended returns.)

- ▶ *Fringe benefits requiring valuation.* Compliance with constructive receipt may be difficult, even impossible, if there is a delay between the date of constructive receipt and the date on which the value of the benefit is ascertained. This situation may arise with certain taxable stock transactions, dependent care assistance and personal use of a car, to name a few. Assume for instance that an employer subsidizes the cost of day care for an employee on December 31. The total value of the dependent care assistance is not known until January. Income tax cannot be withheld on the value of the benefit because it was received in the previous tax year (e.g., the last paycheck of the year may have been received on December 20).

The IRS special accounting rule, which allows a business to treat the value of personal use of an auto received in November and December as paid in the following tax year, provides substantial relief to employers in meeting their tax and reporting deadlines. (*IRS Announcement 85-113, 1985-31 IRB 31; Ernst & Young LLP Payroll Newsflash, Vol. 11, #223, November 22, 2010*) Unfortunately, its use is restricted to taxable use of employer-provided automobiles.

Compliance with constructive receipt may be difficult, even impossible, if there is a delay between the date of constructive receipt and the date on which the value of the benefit is ascertained.

2-E: Third-party interfaces and intercompany wage transfers

Because of the increased regulation and oversight of numerous fringe benefits, a significant number of employers use third-party plan administrators for a variety of benefits including disability pay, qualified retirement, nonqualified deferred compensation, stock plans, employee relocation, health insurance and COBRA, medical and dependent care flexible spending accounts, and transportation fringes. Additionally, compensatory items may be provided outside of the payroll system requiring an intercompany transfer of wage data to the payroll system. Examples of such intercompany wage data transfers include items processed through accounts payable such as taxable living and travel expenses, and recognition awards provided through point/merchandise award systems. A large corporate employer may have more than 50 compensatory items that need to be added to the wage and tax system before quarterly and annual returns can be processed. See Table C on page 14.

A large corporate employer may have more than 50 compensatory items that need to be added to the wage and tax system before quarterly and annual returns can be processed.

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Example: Assume that a large, multi-state corporate employer makes its last biweekly wage payment on Friday, December 23, 2011. Assume further that this employer provides all of the benefits listed in Table C below. Although the last regular wage payment was made on December 23, this employer must generally wait until after December 31 to begin collecting information for 50 or more items of compensation that may have been provided between December 23 and December 31. It is the task of the payroll or employment tax department to coordinate the collection of this information with at least 50 different points of contact, ensuring that all of the contacts have provided information in order to meet the first annual reporting deadline of January 31.

Additionally, ambiguity concerning the role of the third party may also lead to reporting delays and errors.

- ▶ *Coordinating the timing of interfaces.* In many cases the third-party arrangement cannot be avoided, meaning that employers frequently have no choice of performing certain tasks internally where greater control may be exercised over the timing at which information is available. Refer to the highlighted areas in Table C below. Stock transactions, for instance, generally are handled by a broker, credit card statements are needed to identify taxable items, investment companies provide participant and account information for nonqualified deferred compensation plans, and disability payments made to a third-party state or private fund are required to be included in the employer's Forms W-2. IRS regulations require that providers of disability pay furnish employers with "regular" statements of wages paid and taxes withheld and one annual statement that is submitted by January 15 of the year following the year the disability payments were made. (*IRC §6051(f)*; *IRS Reg. §31.6051-3*) Two issues arise with the statutory reporting requirements governing third-party disability pay. The term "regular" statement is not defined, and as a result, may not coincide with the date the wages were paid and required to be reported. Finally, the employer may not have sufficient time to meet its annual wage and tax reporting deadlines based on statements that are mailed by third-party providers as late as January 15.

Table C: Common quarterly and year-end adjustment items for mid-to-large corporate employers

W-2 reportable item	Employer	Third party	W-2 reportable item	Employer	Third party
401(k) – W-2 box 13 indicator		x	Expatriate wage update	x	x
Adoption assistance	x	x	Gift cards	x	x
Athletic club memberships	x	x	Gifts – noncash	x	
Award – length of service	x	x	Gross-up – federal tax	x	x
Award – recognition	x	x	Gross-up – local nonresident tax	x	x
Award – safety	x	x	Gross-up – state nonresident tax	x	x
Business expense – non-accountable	x		Insurance-annuity		x
Club memberships	x		Jury duty-offset	x	
Credit card – nonaccountable		x	Living expenses	x	
Deferred comp. – distributions		x	Loans – forgiven	x	
Deferred comp. – earnings		x	Loans – interest income	x	x
Dependent care facility		x	Medical debit card		x
Dependent care flexible spending	x	x	Non-cash award	x	x
Dining hall-executive	x		Parking	x	x
Disability pay – HI		x	Relocation – domestic	x	x
Disability pay – NJ		x	Relocation – foreign	x	x
Disability pay – NY		x	Scholarships	x	x
Disability pay – private fund		x	Settlement awards	x	x

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W-2 reportable item	Employer	Third party	W-2 reportable item	Employer	Third party
Disability pay – PR		x	State disability offset	x	x
Disability pay – state offset	x	x	Stock – W-2 box 12 indicators		x
Discounts – merchandise	x		Stock – ESPP		x
Discounts – services	x		Stock – ISO		x
Educational assistance	x	x	Stock – nonqualified		x
Expatriate totalization	x	x	Stock – restricted		x
Expatriate taxes	x	x	Transit benefits	x	x
Outsourcing is necessary due to the nature of the compensation.					

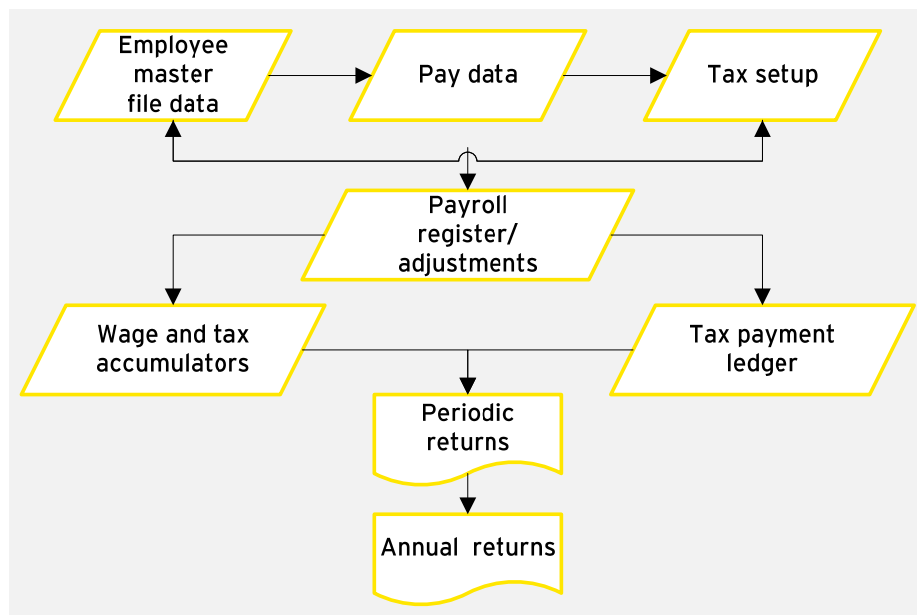
- ▶ *Complexity in ascertaining taxable wages.* The potential for delays or errors in the accurate and timely filing of wage and tax reports is the most significant where a third party administers the employer's nonqualified deferred compensation (NQDC) because the federal and state income and UI requirements governing the timing and inclusion of such benefits in wages varies considerably. Employers may have to spend a considerable amount of time reviewing contributions and distributions in order to accurately ascertain the various tax and reporting requirements. There is also considerable complexity in determining the taxable portion of stock transactions largely because there are various types of stock plans, each governed by unique tax and reporting requirements.

2-F: Reconciliation

Whether employment tax returns are prepared by the employer or a third party, an organization's internal controls require basic review and reconciliation steps prior to filing wage and tax reports. A basic reconciliation system explores the following:

- ▶ Are all employees included on the appropriate wage reports?
- ▶ Are all wages reported to the appropriate taxing jurisdictions?
- ▶ Do the gross wages reported to the states reconcile to the gross wages reported to the IRS and SSA?
- ▶ Do the accumulated wage and tax totals agree to the totals of all payroll registers?
- ▶ Has the proper return been prepared for each jurisdiction included in the tax setup file?
- ▶ Have tax payments been made for all withholding taxes and according to the tax setup file?
- ▶ Do the taxes reported on the return agree with the tax payments made to the jurisdictions?
- ▶ Does the wage and tax information reported on periodic returns (e.g., quarterly Form 941) agree with the wage and tax information reported on annual returns?
- ▶ Do the wages reported on quarterly UI wage reports reconcile to the wage and tax information reported on the annual IRS Form 940?

Figure 5: Basic steps in wage reporting reconciliation process



There are two key principles in performing an effective reconciliation: proper sequencing in the preparation of wage and tax returns and ensuring that amendments are reflected in both the periodic and annual returns.

There are two key principles in performing an effective reconciliation: proper sequencing in the preparation of wage and tax returns and ensuring that amendments are reflected in both the periodic and annual returns.

- ▶ *Proper sequencing of return preparation.* Before preparing and reconciling annual returns, it is first necessary that the quarterly returns be prepared and reconciled. For example, quarterly Forms 941 must be prepared and reconciled before the Forms W-2. Similarly, state quarterly UI returns must first be prepared and reconciled before the annual federal Form 940. Consequently, annual returns are prepared later than periodic returns. The volume of periodic returns that are required to be filed by an employer will dictate the amount of delay between the preparation of the periodic (e.g., monthly or quarterly) and annual returns.
- ▶ *Ensuring adjustments and amendments are reflected in periodic and annual returns.* One of the primary disadvantages of our decentralized wage reporting system is the complexity it creates when wage and tax data are amended. A change in an employee's reported wages can trigger amendments to periodic, quarterly and annual returns for a number of taxing jurisdictions. For example, assume that annual wages are reported incorrectly for a Pennsylvania employee whose wages are subject to federal income tax; FICA tax; and Pennsylvania state, earned income and local service taxes. The employer would be required to file at least seven amended returns as follows: an amended Form 941; Form 940; quarterly Pennsylvania state UI return; and Forms W-2 for federal, Pennsylvania state and two Pennsylvania local taxing jurisdictions. A failure to make amendments to all affected returns will result in reconciliation errors that affect employers and taxing authorities. It is understandable that employers would prefer to prolong the filing of original returns, hoping to prevent the time-consuming cascade of amended returns that might result from reporting errors.

Given the importance of basic reconciliation in the wage reporting process, it is important that taxing jurisdictions provide specific guidance on the reconciliation process, perhaps explaining the procedures that are used when the tax jurisdiction conducts an audit.

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2-G: Tax filing

Tax filing has grown increasingly complicated as the vast majority of taxing jurisdictions migrate to paperless reporting. Rather than complete agency-specific forms, as once was the case, many employers are now required to comply with jurisdiction-specific file layout specifications for filing income tax withholding and UI returns. Because file format specifications and allowable methods of reporting periodically change, additional time must be reserved in the returns processing schedule for researching current jurisdictional reporting requirements. When changes have to be made in either the method of reporting or in the format, the time needed to prepare the return(s) is increased. When returns are not properly formatted, they can be rejected by the taxing authority, creating delays in the filing of wage reports.

For tax year 2010, only two states were in complete conformity with the SSA's EFW2 record layout specifications for Form W-2 reporting, including the addition of the RV record.

- ▶ *Form W-2 state record layout reporting variations.* In 2008, the SSA added the RV (state record) to its EFW2 record layout specifications for electronic reporting. For tax year 2010, only two states (see Table D below) were in complete conformity with the SSA's EFW2 record layout specifications for Form W-2 reporting, including the addition of the RV record. (Ernst & Young LLP survey, September 2010)

Table D: States conforming to SSA EFW2 standard for Form W-2 filing*

Indiana

Nebraska

*This survey is based on information available as of September 2010.

- ▶ *State unemployment reporting variations.* In addition to the variations in the UI reporting data elements summarized in Table B on page 12, are variations in the reporting format. The National Association of State Workforce Agencies (NASWA) published a standard format for UI reporting based on the SSA's EFW2 format. NASWA's intent in creating a standard format was to ease the reporting burden of multi-state employers. Close to half the states, as shown in Table E below, do not accept the NASWA standard format for UI reporting.

Close to half the states do not accept the NASWA standard format for UI reporting.

Table E: States not accepting NASWA's standard format for UI reporting*

Alaska

Nevada

Connecticut

New Hampshire

Delaware

New Jersey

Florida

New Mexico

Hawaii

New York

Idaho

Oregon

Louisiana

Rhode Island

Maine

Utah

Michigan

Virginia

Nebraska

Wyoming

*Based on Ernst & Young LLP survey of September 2010.

Many employers outsource the tax filing function to a third-party service provider. According to a 2009 survey by the American Payroll Association, 35.7% of the businesses surveyed had completely outsourced payroll, with 46.9% representing employers with 499 or fewer Forms W-2 and 25% with 10,000 or more. (*2009 Salaries and Payroll Profession Survey, American Payroll Association, p. 101*) When the tax filing process is turned over to a third party, the employer is subject to the filing schedules of the third party. Because the third party requires time to receive and edit client input, reconcile, post adjustments, make additional payments, format returns, submit returns, and resolve and resubmit any rejections, clients may be asked to provide their wage and tax detail as much as two weeks before the filing due date. Therefore, employers that outsource the employment tax function may be subject to accelerated input cutoffs (e.g., January 18, 2011, for the 2010 fourth quarter).

According to a 2009 survey by the American Payroll Association, 35.7% of the businesses surveyed had completely outsourced payroll, with 46.9% representing employers with 499 or fewer Forms W-2 and 25% with 10,000 or more.

Section 3: Withholding and employment tax return due dates

Employee wage information is required to be reported primarily for income tax withholding and UI contribution purposes. Generally, the reporting periods are based on the calendar year and are filed quarterly and/or annually. Revenue departments generally require that employee wage and tax information be furnished to employees and filed with the revenue departments after the close of the calendar year. Workforce agencies require that UI returns including employee wage detail be filed after the close of the quarter. As explained in Section 1-B on page 4, all state quarterly UI returns/wage continuation sheets are due on the last day of the month following the end of the quarter, with the exception of Michigan and New Jersey. The due date for furnishing Forms W-2 to employees and filing them with the revenue departments varies by jurisdiction.

When determining the order in which tax returns will be processed, four factors, in the following order, are generally taken into account:

1. Whether the return is primary in the reconciliation process (e.g., Forms W-2 reconcile to Forms 941, therefore the Form 941 is first prepared)
2. The due date of tax payments and other filings that are included on the return
3. The due date of the return
4. The complexity of the return:
 - (a) Non-standard data elements that require special queries
 - (b) The reporting method (paper, magnetic media or electronic)

Included in Table G on page 21 are the quarterly employment tax return due dates. Notice that although the Form 941 is due later than the Michigan and New Jersey UI returns, it is placed first in the production schedule because the UI returns will be reconciled to the Form 941. This is not to say that the wage amounts agree, but that the employer can explain the differences. Differences in the taxable wages reported on various returns should be supported by variations in the jurisdiction's definition of taxable wages.

Example: In addition to regular wages, a Texas employer pays for 100% of the cost group medical premiums and allows employees to contribute up to 15% of their salary to its 401(k) plan. Total federal taxable wages as reported on Form 941, line 2 were \$100,000 and 401(k) pretax contributions totaled \$15,000. The pretax contributions to the 401(k) are excluded from wages reported on Form 941, line 2 but are included in federal (Form 940, FUTA) and Texas unemployment taxable wages. Table F below illustrates the reconciliation between the Form 941, Form 940 and Texas UI return.

Table F: Sample Form 941, 940 and Texas UI reconciliation

Form 941, line 2 wages	Plus 401(k)	Texas SUI wages	FUTA wages (Form 940)
\$100,000.00	\$15,000.00	\$115,000.00	\$115,000.00

The Michigan and UI returns are placed next for production because of their due dates. Although the remaining UI returns are due at the same time, the Wyoming combined UI and workers' compensation return may be given a higher priority in the production cycle because of the many non-standard fields of data that are required on this return (i.e., NAICS/class code, Type B/U/W (if covered by both UI and workers' comp, if covered by UI only, or if covered by workers' comp only), new hire date, total hours this quarter, workers' compensation average wages). (See Table B on page 10 for UI non-standard reporting elements.)

The final consideration is given to the method that is required for filing the return. Paper returns generally are filed first because they generally can be processed and printed in a single batch process. In contrast, electronic files generally are transmitted through each state's website and take more time to file.

Section 3-A: The quarterly filing schedule

Shown in Table G on page 18 are the current due dates of the federal and state quarterly employment tax returns listed in their order of priority in the production cycle. Although the federal Form 941 does not currently contain employee wage detail, it should be considered when preparing the quarterly tax filing schedule because, as a quarterly employment tax return, its due date falls within the same time frame as the UI returns. Additionally, the total wages reported on Form 941 should reconcile with the total wages reported on the UI returns. (See Section 2-F on page 15 and Table F on page 17 for more information concerning reconciliation.)

Table G: Quarterly employment tax return production schedule and due dates*

Return description	Quarter 1 January–March	Quarter 2 April–June	Quarter 3 July–September	Quarter 4 October–December
Federal Form 941**	April 30	July 31	October 31	January 31
Michigan SUI	April 25	July 25	October 25	January 25
New Jersey SUI	April 30	July 30	October 30	January 30
SUI – all other states	April 30	July 31	October 31	January 31
Total returns	52	52	52	52

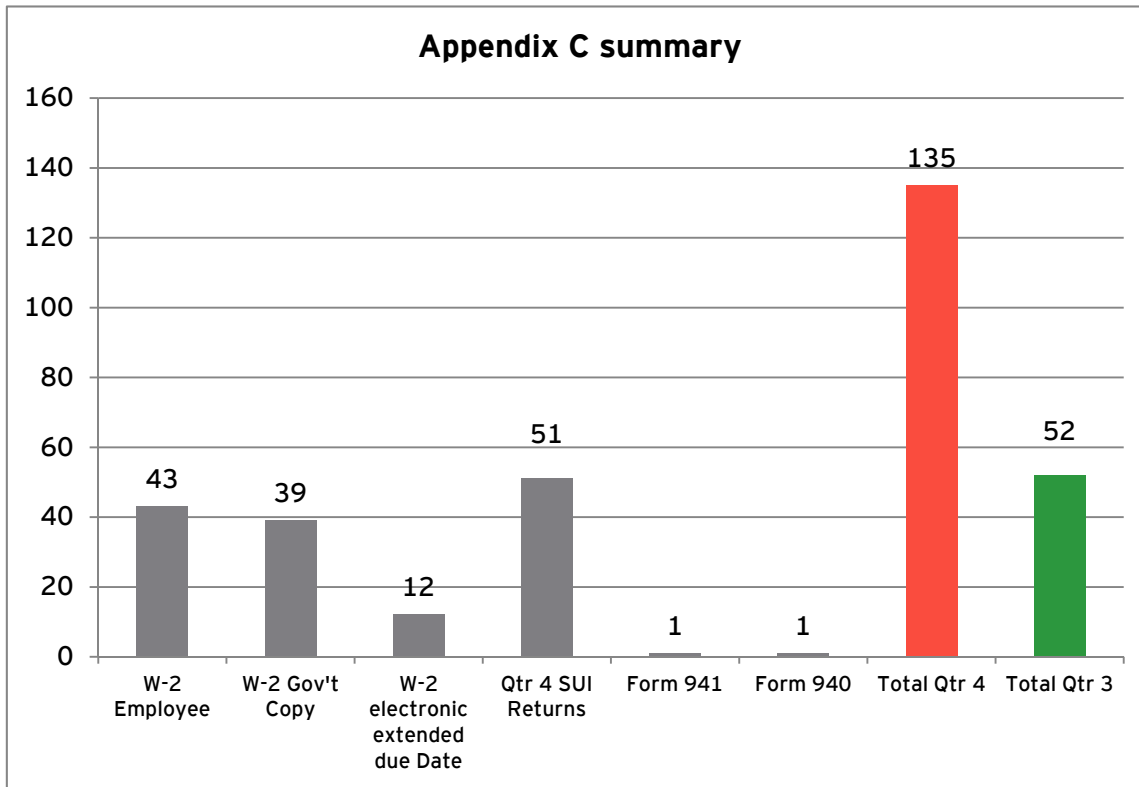
*In general if the due date falls on a Saturday, Sunday or legal holiday, the due date is the next business day.

**The due date may be extended to the 10th of the subsequent month if all Form 941 taxes were timely paid and for the full amount.

Section 3-B: The annual filing schedule

The production volume following the fourth quarter is dramatically increased by annual withholding and employment tax returns that come due within the same time frame. Shown in Figure 6 on page 20 are the total federal and state UI and W-2 statements and returns requiring employee wage and tax detail. (Note that 10 or more states require a Form 941 equivalent and these returns are not reflected in Figure 6.) The analysis in Figure 6 assumes that a multi-state employer has employment in all of the states and that it is reporting for only one EIN. These volumes could be higher or lower depending on the number of states in which an employer has employees and the number of legal entities (federal and/or state accounts) involved. As Figure 6 demonstrates, the volume of returns in the period following the fourth quarter is more than doubled by annual employment and withholding tax returns, including 82 Form W-2 files required for federal, state and employee reporting purposes. (See Appendix C on page 41 for details concerning the returns and jurisdictions that apply.)

Figure 6: Fourth quarter return volume compared to third quarter



Shown in Figures 7a and 7b on page 23 are the total federal and state returns requiring employee wage and tax detail. The analysis in Figures 7a and 7b assumes that a multi-state employer has employment in all of the states and that it is reporting for only one EIN. These volumes could be higher or lower depending on the number of states an employer has employees and the number of legal entities (federal and/or state accounts) involved.

As demonstrated by Figure 7a on page 23, staffing for the annual reporting period is challenging because most return due dates fall on January 31, followed by a second spike on February 28. (See Figure 7a on page 23.) Only marginal relief from the February workload is available to electronic filers that are granted, by some jurisdictions, an extension of the Form W-2 filing due date to March 31. (See Figure 7b on page 23.) (See Appendix D-1 and Appendix D-2 on pages 43 and 46 for details concerning the returns and jurisdictions that apply.) Note that the Form W-2 jurisdictional filings can increase significantly if the employer has work locations imposing a local payroll tax.

Figure 7a: Fourth quarter return volume by due date (paper filers)

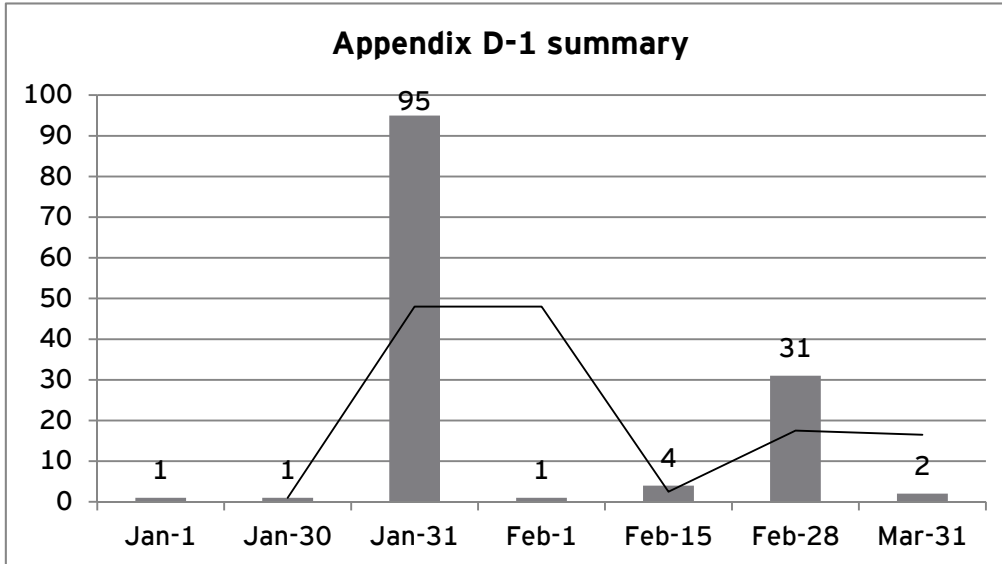
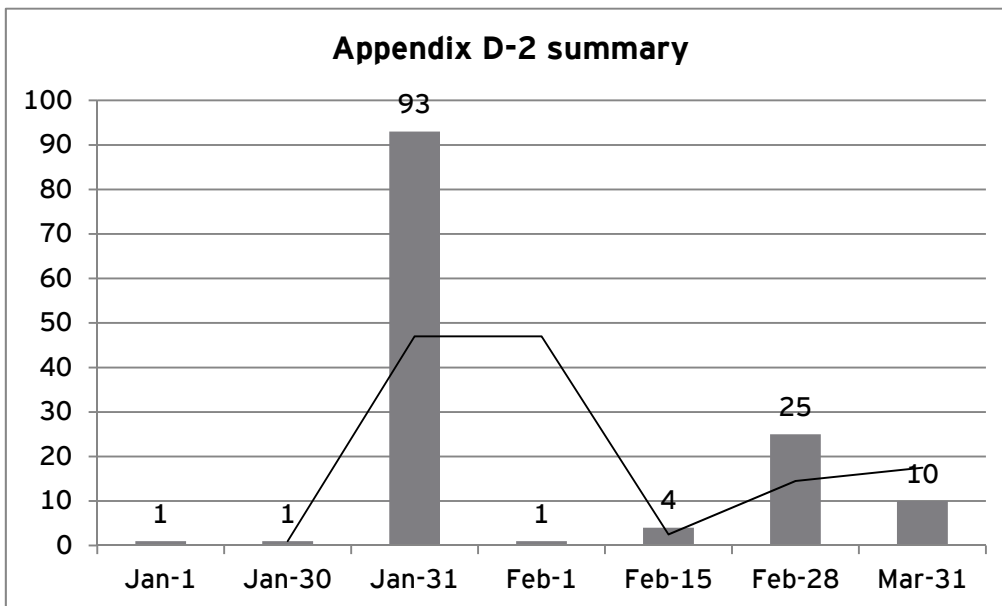


Figure 7b: Fourth quarter return volume by due date (electronic filers)



Section 4: Business challenges in meeting employee wage reporting deadlines

Widespread availability of current technologies has created a more user-friendly reporting environment for small companies. An employer with fewer than 100 employees doing business in 1 or 2 states is more likely to benefit from such advances as web-based applications that allow for direct input and transmittal of wage and tax information or inexpensive software solutions that facilitate the processing of employment tax returns and wage and tax statements. The smaller business is also more likely to outsource the payroll and employment tax function because the cost of outsourcing generally is less than the cost of hiring full-time employment tax specialists.

Given the government's expanded use of and reliance on wage and tax information, it is vitally important that more focus be placed on the challenges large employers face in timely and accurately filing withholding and employment tax returns. While multi-state employers comprise only 1% to 2% of employers, the largest 1% of businesses employ more than half of the private sector workforce. (*State Calculation of Taxable Wages and Tax Due, UI Wage and Tax Reporting Work Group, December 10, 2009*)

Similarly, increased focus is needed on the challenges facing employment tax service providers because they are responsible for the employment tax filing of almost 50% of businesses with fewer than 500 employees. (*2009 Salaries and Payroll Profession Survey, American Payroll Association*)

In order of their significance, the following factors frequently create challenges in the wage reporting process for businesses responsible for reporting in multiple jurisdictions:

1. Seasonal workload (consideration should be made to current peak periods when considering new returns or changes in existing due dates)
2. Electronic and magnetic media filing
3. Inconsistent and/or vague wage definitions
4. Non-standard data elements
5. Decentralization of local income tax collections
6. Wage amounts not readily ascertainable (e.g., valuation of the compensatory item)
7. Third-party payments (e.g., compensation administered by a third party)
8. Adjustments and amendments

Section 4-A: Seasonal workload

As illustrated in Figure 6 on page 22, employment tax work load peaks in the months following the close of each quarter and in particular, the months following the fourth quarter. (See Figures 7a and 7b on page 23.)

For the large company, there are generally six months where the work effort is almost exclusively dedicated to processing quarterly or annual returns. (See Table H on page 24.) In order to keep qualified staff available for peak filing periods, there must be sufficient work for them in the six months of normal employment tax activity. Particularly for businesses that do not outsource the employment tax filing function, these seasonal demands generally are met in overtime hours. In some instances, particularly in meeting annual reporting demands, temporary employees may be used.

Table H: Peak months for employment tax return processing

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
= quarterly and annual return processing months											

As jurisdictions contemplate expanding quarterly or annual reporting requirements or accelerating existing due dates, consideration should be given to the burden these requirements place on businesses whose employment tax departments are already stretched during the six peak return processing months.

Section 4-B: Electronic and magnetic media filing

Electronic filing systems allow jurisdictions to more quickly and efficiently process wage and tax data; however, for large employers, such systems have complicated the filing process and, in some cases, have slowed the speed at which returns are filed. The issues that electronic filing systems create for businesses are well-summarized by the National Payroll Consortium, Inc.:

“With the exception of single-state employers that can key in employee SSNs, names and wage amounts to an agency website one employee at a time, special software is needed to comply with each agency’s file formatting and upload specifications. States generally use well-established reporting formats, such as the EFW2, as a starting point, but security features, edits and file transfer protocols tend to vary from state to state. In addition, file formats, edits, registration requirements and upload specifications change frequently as systems evolve, often requiring annual software updates.”

- ▶ *Batch vs. single jurisdiction filing.* Electronic reporting systems that allow for batch processing are helpful to businesses that are filing for multiple accounts (EINs), but they do not help employers with single returns that are filed in multiple jurisdictions. When preparing paper, CD or tape files, the employer has the ability to send files for multiple jurisdictions into a production queue, allowing one process to trigger the production of files for multiple jurisdictions. In many instances, the requirement to upload a file to each jurisdiction’s website has increased the time necessary to file returns.
- ▶ *No alternatives to electronic filing.* If the computer system of the business or the jurisdiction is slow or out of service, the jurisdiction may receive a late file and the business may face a late filing penalty. By way of illustration, the Washington Department of Labor & Industries recently announced it had to waive penalties for the late filing of second-quarter 2011 *Employer’s Quarterly Report for Industrial Insurance* because of a computer slowdown at the Department. (*Email notification, Washington State Department of Labor & Industries, August 2011*)

As jurisdictions contemplate expanding quarterly or annual reporting requirements or accelerating existing due dates, consideration should be given to the burden these requirements place on businesses whose employment tax departments are already stretched during the six peak return processing months.

Electronic filing systems allow jurisdictions to more quickly and efficiently process wage and tax data; however, for large employers, such systems have complicated the filing process and, in some cases, have slowed the speed at which returns are filed.

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For state UI purposes, seven states require electronic filing for all employers. (See Tables I-1 and I-2 below.) Most of these states do not provide a copy of the UI return or wage continuation report on their websites because paper reporting is not allowed. For Form W-2 reporting purposes, only one state requires paperless reporting for all employees.

Table I-1: SUI paperless reporting mandates for 50 or fewer employees*

Alabama	All
Florida	10
Kentucky	10
Maine	All
Massachusetts	All
Minnesota	All
New Jersey	All
North Dakota	25
Oklahoma	All
Pennsylvania	All
Rhode Island	25
Texas	10
Vermont	25
Wisconsin	25
Total states	14

*Based on Ernst & Young LLP September 2010 survey data.

Table I-2: Form W-2 paperless reporting mandates for 50 or fewer forms*

Alabama	50
Connecticut	25
District of Columbia	50
Idaho	50
Indiana	25
Kansas	All
Massachusetts	50
Minnesota	25
Nebraska	50
Oregon	50
Puerto Rico	5
Rhode Island	25
West Virginia	50
Wisconsin	50
Total states	14

*Based on Ernst & Young LLP September 2010 survey data.

- ▶ *Requirement for applications and registrations for electronic filing.* Businesses are already registered with the government agency, yet many government agencies require separate additional registration for each electronic filing system. Separate registration takes time to process and issue authentication credentials. States should seek to automate and streamline this process.
- ▶ *Inconsistency in file format and record layout.* Despite uniform reporting standards for Form W-2 (EFW2) and UI returns (NASWA), there remain numerous variations in jurisdictions' file formats and record layouts. In many instances, special skills outside of the employment tax department are required to maintain file format and record layouts and the associated export/import functions. Additionally, most multi-jurisdiction employment tax departments do not have the staff or budget to support the quarterly and annual research required to ensure compliance with changes in electronic/magnetic media reporting specifications. Whether or not file format and record layout specifications are supported by software technology or a third-party service provider, the employer remains liable for compliance and therefore has an internal control obligation to review these processes. (See Table D and Table E on Page 18 for more information.)
- ▶ *System edits and file rejections.* In some cases jurisdictions reject files for exceptions such as a missing SSN (e.g., Michigan), name formatting errors and incorrect addresses. For UI reporting purposes, some states recalculate the UI taxable wages, rejecting files where employees' UI taxable wages do not agree with their calculations. Rejecting files that don't contain "fatal errors" creates unnecessary filing delays and exposes businesses to late filing penalties. (*Recommendations and Considerations for Designing UI Electronic Filing Systems, NPRC, April 2010*)

The National Payroll Consortium, Inc., provides the following illustrations:

In the new electronic filing environment, tax authorities can reject employment tax returns, wage reports and W-2s for correction and resubmission. Although the core data being reported is relatively common (e.g., SSNs, employee names, addresses), there is little consensus among the states as to edit standards. Many states restrict punctuation, spacing, numeric and special characters in employee wage or W-2 reports. A few examples:

- ▶ *California, Connecticut and Kansas don't permit tildes in names (e.g., "Muños")*
- ▶ *Some states, such as Nevada, reject names with any punctuation (e.g., "Jones, Jr.")*
- ▶ *Some states prohibit apostrophes (e.g., O'Hara), while others (e.g., Washington) prohibit blanks separating single-letter prefixes (e.g., O Hara)*

This diversity is often made more problematic because such edits tend to be undocumented in agency specifications, so the only way to determine a state's error criteria is to actually receive a rejection. This can obviously jeopardize an employer's ability to meet reporting deadlines.

Businesses are already registered with the government agency, yet many government agencies require separate additional registration for each electronic filing system. Separate registration takes time to process and issue authentication credentials. States should seek to automate and streamline this process.

Whether or not file format and record layout specifications are supported by software technology or a third-party service provider, the employer remains liable for compliance and therefore has an internal control obligation to review these processes.

Section 4-C: Inconsistent and/or vague wage definition

For income tax purposes, and with limited exceptions, states have generally conformed to the federal IRC definition of taxable wages. Thus, the tax setup process for state income tax withholding has been relatively manageable in the last decade. As Congress shifts to shorter extensions on expiring provisions (e.g., educational assistance, adoption assistance and transportation fringe benefits), maintaining compliance with variations in the definition of taxable wages for income tax purposes has already increased. (See Section 2-C on page 10.)

The wage definition for state UI purposes is more complex, with many states deviating from the IRC for a broader range of wage payments and fringe benefits. (See Figure 4 on page 9.) In some cases, administrative guidance concerning the benefits and wage payments included or excluded from UI taxable wages is vague, leaving employers to invest extensive financial and human resources to remain in compliance. (See Table J on page 25.)

In some cases, administrative guidance concerning the benefits and wage payments included or excluded from SUI taxable wages is vague, leaving employers to invest extensive financial and human resources to remain in compliance.

Table J: State SUI administrative guidance on taxable wages is vague *

Hawaii	South Dakota
Louisiana	Texas
North Carolina	Virginia
Ohio	

*Based on Ernst & Young LLP July 15 survey data.

Section 4-D: Non-standard data elements

As explained in Section 2-D on page 11, when a jurisdiction requests a data element that is not included in the files that are generally linked to the return, special queries or input steps are necessary in creating the jurisdiction's return, all of which extend the time required in preparing the return. For example, Vermont requires for UI reporting purposes that the wage continuation sheet of employee detail include whether employees are hourly or salaried and their hourly rate and gender. (See Table B on page 10 and Appendix B on page 32.)

Section 4-E: Decentralization of local income tax collectors

In addition to returns required by the states are local income and employment tax returns required by their local municipalities.

Pursuant to an employer's annual wage reporting requirements (see Figure 6 on page 22), local income tax returns significantly increase their workload and potentially slow down the processing of other returns.

Pursuant to an employer's annual wage reporting requirements, local income tax returns significantly increase their workload and potentially slow down the processing of other returns.

Section 4-F: Wage amounts not readily ascertainable

Noncash items that require a fair market value determination, such as personal use of company cars, or any item of compensation where there is a necessary delay between constructive receipt and the date on which the taxable wage amount is ascertained (e.g., NQDC and taxable stock transactions) create delays in meeting filing requirements. Additionally, income tax withholding and reporting may be required in instances where the value of the benefit is necessarily ascertained after the close the quarter or year. In the latter case, adjustments and amendments may be required in addition to more complex processes such as gross-ups or tax advances, all of which further delay the reporting process. (See Section 2-D on page 12 for more information.)

Section 4-G: Third-party payments

Third-party payments are defined as items of compensation that are made outside of the payroll system and include external sources such as third-party sick pay, qualified and nonqualified retirement contributions and distributions, relocation reimbursements, health plan reimbursements, prizes and awards, etc. (See Table C on page 14 for a sample list of these compensatory items.) Because the information concerning the taxable amounts must be transferred to the employment tax area and posted to the payroll system for wage reporting, there may be delays in finalizing the data needed for employment tax reporting purposes, and worse, the information may not be known until after the cutoff for filing returns, resulting in adjustments and amendments. The latter situation is more likely to arise for employers that outsource the employment tax reporting to a third party because cutoff dates for finalizing wage and tax files may be further ahead of the actual return due dates. (See Section 2-E on page 13 for more information.)

Because information concerning taxable amounts must be transferred to the employment tax area and posted to the payroll system for wage reporting, there may be delays in finalizing the data needed for employment tax reporting purposes, and worse, may not be known until after the cutoff for filing returns, resulting in adjustments and amendments.

Section 4-H: Adjustments and amendments

Two issues arise in dealing with adjustments to quarterly or annual wage and tax data. The first is identifying whether the adjustment will be reflected on the current period return or whether amendments to previous returns are necessary. The second is correctly identifying those returns affected. This process is most time-consuming in preparing annual returns where there is a greater variation in return due dates. (See Figure 6 on page 22 and Appendix C on page 41.)

- ▶ *Adjust current return or amend prior return.* Assume for instance, that an adjustment affecting federal income tax withholding is discovered on February 2. This adjustment is required to be reflected on the Form 941 filed by January 31, the state Forms W-2 filed by February 1, and the federal Forms W-2 to be filed on March 31. Consequently, an adjustment is made to the federal Form W-2 file; however, amendments are necessary for the Form 941 and state Forms W-2. In addition, the filing of original returns is likely to be given priority over the filing of amendments, creating a delay in reporting the correct wage amount to jurisdictions.

The filing of original returns is likely to be given priority over the filing of amendments, creating a delay in reporting the correct wage amount to jurisdictions.

-
- ▶ *Correctly identifying returns affected by adjustments or corrections.* As discussed in Section 2-F on page 15, a correction in wages or taxes can affect all federal and state withholding and employment tax returns. Consequently, for multi-jurisdictional employers, identifying all of the jurisdictions and returns that need to reflect adjustments can be complex and time-consuming, resulting in both delays in filing returns and in reporting the correct wage and tax detail.

Section 5: The impact of accelerating wage and tax reporting due dates

Some states, particularly those that use an ABP, have given consideration to accelerating the due date for UI returns. (See Section 1-B on page 4 for more information.) The federal government has also expressed interest in accelerating the filing of Forms W-2, Copy A for numerous reasons including Form W-2 fraud prevention and a reduction of Form 941/W-2 reporting differences. Given the significant changes in the employment tax reporting landscape, namely broader use of technology such as electronic reporting systems, it is important to consider the extent to which an acceleration in filing due dates might adversely affect businesses and the integrity of the wage data they provide.

Section 5-A: Quarterly reporting of employee Form W-2 wage information

Prior to 1978, employers included Schedule A with the quarterly Form 941 showing by SSN the Social Security wages for each employee. Forms W-2 were filed with the IRS annually. Schedule A was used quarterly by the SSA to post wages to each employee's earnings record. Effective in 1978 (with a later effective date imposed for certain employers), Schedule A was eliminated and Forms W-2 were required to be filed with the SSA. (SSA RM 01101.003, *Employer Wage Reporting-General*; P.L. 94-202)

In testimony supporting legislation to eliminate Form 941-Schedule A, the Senate Select Committee on Small Businesses estimated that the cost to small businesses to prepare and file Schedule A was \$205 million. (*Senate Report No. 93-125, p. 49, December 12, 1975*) Adjusting for inflation, that amount would top \$941 million in 2011. (*S. Morgan's Friedman's Inflation Calculator*) While most small businesses no longer prepare wage and tax returns by hand, without question there would continue to be a significant cost incurred by all businesses in providing employee wage detail to the IRS and SSA on a quarterly basis.

A few states (e.g., California, Maine and Massachusetts) require reports of wages subject to income tax on a quarterly basis, in some cases in addition to annual W-2 reporting. Quarterly filing requirements in these states should be analyzed to assess the cost and effectiveness of these programs.

In addition to cost, consideration should also be given to employers' current quarterly employment tax reporting workload. January is the peak filing month for employment tax returns. Adding yet another return also means adding yet another reconciliation process during a time that resources are already stretched to meet existing filing deadlines. (See Section 4-A on page 24 for more information.)

In today's business climate, it is difficult to justify the cost of a redundant reporting requirement. Additionally, IRS regulations provide that federal Forms W-2 are allowed to be filed one to two months after January 31, giving employers sufficient time to identify wage reporting errors brought to their attention by employees. Consequently, fourth-quarter employee wage detail filed with the SSA or IRS on January 31 may not be as accurate.

A few states (e.g., , California, Maine and Massachusetts) require reports of wages subject to income tax on a quarterly basis, in some cases in addition to annual W-2 reporting. Quarterly filing requirements in these states should be analyzed to assess the cost and effectiveness of these programs.

Section 5-B: Accelerated filing of SUI wage data

According to a study sponsored by the U.S. Department of Labor and published in 1997, “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.” (*Impact of the Alternative Base Period on Employers, Vol. III, Planmatics, Inc.*) This study is consistent with state history. Massachusetts is the only state that has enacted legislation requiring employers to file UI returns by the 15th of the month. Within a short time the law was repealed because most employers could not meet the deadline. In 2010, South Carolina also considered a UI filing deadline of the 15th of the month; however, because of unfavorable commentary the state has not pursued the mandate.

As of the date of this study, only two states, Michigan and New Jersey, impose a UI return filing due date that is sooner than the last day of the month. Michigan’s filing due date is the earliest – the 25th of the month.

The processes involved in return filing as described in Section 2 and the challenges in meeting those filing requirements as explained in Section 4 collectively articulate why the majority of states give employers one month to file their UI returns and wage reports.

The possibility of states imposing an earlier deadline warrants further investigation of costs, feasibility and effect on amendment volume.

Section 5-C: Accelerated filing of Forms W-2

With the exception of six states (see **Table K below**), the due date for providing employee copies of Form W-2 is generally sooner than the due date for filing the federal and state copies. This delay between furnishing Forms W-2 to employees and filing them with the taxing jurisdiction is critical in reporting the most accurate wage and tax information in the initial filing because it allows time for employees to review their statements and bring errors to the attention of their employers. When employee and jurisdictional copies are filed at the same time, data accuracy is sacrificed. Costs to governments and businesses also increase because amended returns must be filed and processed. This situation is exacerbated when the jurisdictional filing is required to be made before employees receive their Forms W-2, as is currently the requirement in Nebraska.

Table K: States requiring filing of Forms W-2 on or near January 31 *

District of Columbia	Nebraska**
Kentucky	Pennsylvania
Mississippi	Wisconsin

*Based on Ernst & Young LLP September 2010 survey data.

** Due date is February 1.

Under the federal Form W-2 filing requirements, the filing deadline is extended from February 28 to March 31 for files submitted electronically. Ten states (see **Table L below**), similarly give non-paper filers a one month filing extension.

Table L: States with extended Form W-2 filing deadlines for non-paper filers *

Colorado	Massachusetts
Connecticut	Mississippi**
Delaware	North Dakota
District of Columbia **	Oregon
Maine	Utah

*Based on Ernst & Young LLP September 2010 survey data.

** Extended due date is February 28.

A filing extension for non-paper filers may have been necessary when employers were unaccustomed to electronic filing systems. The additional filing time also gives employers an incentive to file electronically. However, does the rationale that led to the filing extension for electronic filers still exist in today's employment tax reporting environment? The fact that the majority of the states impose a February 28 deadline for both paper and non-paper filings of Forms W-2 gives evidence that employers are able to file jurisdictional copies of Forms W-2 by February 28.

Section 6: Options for consideration

When establishing the filing due dates for wage and tax information, governmental agencies should take into consideration the point at which speed would come at the expense of accuracy. Focus should be given to all filers – not just small companies – when establishing wage reporting requirements, reporting systems and due dates.

Finally, there are a number of factors that create delays in reporting and increase the risk of reporting errors. Shown in Table M is a summary of these challenges and policy considerations for addressing them.

Table M: Policy considerations to address challenges that delay accurate wage reports *

Challenge	Policy consideration
Too many requirements to upload electronic files (applications, registrations, etc.)	Differentiate between controls needed for employers to access their account history vs. those needed to upload files.
Inconsistent file format and/or record layout	Where possible, conform to uniform standards such as EFW2 or NASWA.
Electronic system edits and file rejections	Reject electronic files only when errors are fatal to processing. Explicitly identify any conditions considered fatal in specifications. Generally errors should only be considered fatal if they can't be matched to an employer account.
Vague wage definitions	Publish clear administrative guidance that employers can easily reference in determining when compensatory amounts are included in taxable wages. Refer to California's guidance on taxable wages for unemployment and state income tax purposes (<i>California Pub. DE44</i>) and Pennsylvania's Form W-2 reporting guidance (<i>Pennsylvania Rev-415 AS</i>) as a models.
Delay between constructive receipt and ascertaining amount of compensation	Expand the application of the special accounting rule (<i>IRS Announcement 85-113, 1985-31 IRB 31</i>) to include all non-cash fringe benefits and other similar compensatory items where it is reasonable to expect delay in obtaining the correct wage amount. Additionally, regulations are necessary to provide that an employer should not be required to withhold income and employment tax from fringe benefits received by December 31 for which it is impossible to ascertain the fair market value as of that day.
No electronic filing alternative	Allow CD or paper files in event of system outage or delays. Make paper copy of return or list of required data elements easily accessible on the jurisdiction's website.
Difficulty understanding the data elements required on the return	Make paper copy of return or list of required data elements easily accessible on the jurisdiction's website.
Statements of third-party sick pay not required until January 15	Clarify that third-party payers of sick pay are required to issue statements to employers that are consistent with their clients' deposit obligations (e.g., twice per week for semi-weekly depositors).
Amended returns are causing reconciliation errors and notices	Add a reconciliation worksheet to return instructions. For instance, add to the Form 941 and Form 941-X instructions a reconciliation worksheet for Social Security/Medicare wages and federal income tax withheld as reported on Forms W-2/W-2c (similar to the Form 940 worksheet included in Form 940).
Additional costs are incurred to meet peak filing season demands	Give and promote employer incentives to file electronic returns earlier than the required due date (e.g., filing confirmations, electronic access to account information).

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Challenge	Policy consideration
Reduce the threshold at which electronic filing is required	Wage data that is electronically filed is more rapidly available for use; therefore, reducing the threshold for mandatory electronic filing may be an alternative to accelerating the filing due date. (See Tables I-1 and I-2 on page 26.)
Form W-2 income tax refund fraud	Further investigation is needed to determine options for curtailing W-2 income tax refund fraud that will not unreasonably add to the existing employment tax filing costs of businesses and taxing jurisdictions.

Appendices

Appendix A: States using the ABP as of March 2011*

State	ABP	State	ABP
Alabama	Yes	Montana	Yes
Alaska	Yes	Nebraska	No
Arizona	Yes	Nevada	Yes
Arkansas	Yes	New Hampshire	Yes
California	Yes	New Jersey	Yes
Colorado	Yes	New Mexico	Yes
Connecticut	Yes	New York	Yes
Delaware	Yes	North Carolina	Yes
District of Columbia	Yes	North Dakota	No
Florida	Yes	Ohio	Yes
Georgia	Yes	Oklahoma	Yes
Hawaii	Yes	Oregon	No
Idaho	Yes	Pennsylvania	No
Illinois	Yes	Puerto Rico	No
Indiana	Yes	Rhode Island	Yes
Iowa	Yes	South Carolina	Yes
Kansas	Yes	South Dakota	Yes
Kentucky	No	Tennessee	Yes
Louisiana	No	Texas	No
Maine	Yes	Utah	Yes
Maryland	Yes	Vermont	Yes
Massachusetts	Yes	Virginia	Yes
Michigan	Yes	Virgin Islands	Yes
Minnesota	Yes	Washington	Yes
Mississippi	No	West Virginia	Yes
Missouri	No	Wisconsin	Yes
		Wyoming	No

States with ABP=42

States w/o ABP=11

*Information obtained from the UWC. States highlighted in yellow had no ABP provision as of March 2011.

Appendix B: Detail of SUI non-standard reporting elements by state*

State	Employee Last Name	Employee First Name	Middle Initial	Employee SSN	Total SUI Covered Wages	Wages over SUI wage limit	Net SUI Taxable Wages	Other
Alabama	x	First initial		x	x			
Alaska	x	x		x	x			Occupational Code, Location Code
Arizona	x	x	x	x	x			
Arkansas	x	x	x	x	x			
California	x	x	x	x	x			PIT wages, PIT withheld
Colorado	x	x	x	x	x			
Connecticut	x	First initial		x	x			
Delaware	x	First initial	x	x				
DC	x	x	x	x	x			
Florida	x	x	x	x	x		x	Wages paid in other states
Georgia	x	First initial		x	x			
Hawaii	x	x		x	x			
Idaho	x	x	x	x	x			
Illinois	x	x	x	x	x			
Indiana	x	x	x	x	x			
Iowa	x	x	x	x	x		x	
Kansas	x	x	x	x	x	x		
Kentucky	x	First initial		x	x			
Louisiana	x	x		x	x			
Maine	x	x	x	x	x			Maine income tax withheld
Maryland	x	First initial		x	x			
Massachusetts	x	x	x	x	x			MA SIT taxable wages, MA SIT withheld, Employed as of 12 of months 1-3, hours worked, officer code
Michigan	x	x		x	x			Family owned indicator
Minnesota	x	x		x	x			
Mississippi	x	First two initials		x	x			
Missouri	x	First initial	x	x	x	x		Probationary
Montana	x	x		x	x			
Nebraska	x	First initial	x	x	x			
Nevada	x	x	x	x	x			Tips reported this quarter

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State	Employee Last Name	Employee First Name	Middle Initial	Employee SSN	Total SUI Covered Wages	Wages over SUI wage limit	Net SUI Taxable Wages	Other
New Hampshire	x	x		x	x			
New Jersey	x	x		x	x			Base weeks earned in the quarter
New Mexico	x	x	x	x	x	x		State income tax withheld, WC fee
New York	x	x	x	x	x			Availability of health insurance; total gross federal taxable wages, Total NYS, NYC, and Yonkers tax withheld
North Carolina	x	x		x	x			Seasonal employee indicator
North Dakota	x	x		x	x			
Ohio	x	First initial	x	x	x			Number of calendar weeks services performed or wages paid
Oklahoma	x	x		x	x		x	
Oregon	x	First initial		x	x			Hours worked during the quarter
Pennsylvania	x	First initial	x	x	x			Credit weeks
Rhode Island	x	First initial		x	x			Weeks paid, hours paid
South Carolina	x	x	x	x	x			
South Dakota	x	x		x	x	x		
Tennessee	x	First initial	x	x	x			
Texas	x	First initial	x	x	x			
Utah	x	x	x	x	x			
Vermont	x	x	x	x	x			Hourly/salaried, hourly rate and gender
Virginia	x	First initial		x	x			
Washington	x	x		x	x			Total hours; OOS wages
West Virginia	x	x	x	x	x			
Wisconsin	x	x		x	x			
Wyoming	x	x		x	x			NAICS/class code, Type B/U/W, new hire date, total hours this quarter, WC average wages

*Based on Ernst & Young LLP survey of July 15, 2011.

Appendix C: Employment and withholding tax returns by due date*

State	Form W-2 – employee copy	Form W-2 – state copy	Form W-2 – state copy extended due date electronic filers	Fourth-quarter SUI/SIT return	Form 940	Form 941
Federal	31-Jan	28-Feb	31-Mar		31- Jan	31- Jan
Alabama	31-Jan	28-Feb		31-Jan		
Alaska				31-Jan		
Arizona	31-Jan	28-Feb		31-Jan		
Arkansas	31-Jan	28-Feb		31-Jan		
California	31-Jan			31-Jan		
Colorado	31-Jan	28-Feb	31-Mar	31-Jan		
Connecticut	31-Jan	28-Feb	31-Mar	31-Jan		
Delaware	31-Jan	28-Feb	31-Mar	31-Jan		
DC	31-Jan	31-Jan	28-Feb	31-Jan		
Florida				31-Jan		
Georgia	31-Jan	28-Feb		31-Jan		
Hawaii	31-Jan	28-Feb		31-Jan		
Idaho	31-Jan	28-Feb		31-Jan		
Illinois	31-Jan	31-Mar	31-Mar	31-Jan		
Indiana	31-Jan	28-Feb		31-Jan		
Iowa	31-Jan			31-Jan		
Kansas	31-Jan	28-Feb		31-Jan		
Kentucky	31-Jan	31-Jan		31-Jan		
Louisiana	31-Jan	28-Feb		31-Jan		
Maine	31-Jan	28-Feb	31-Mar	31-Jan		
Maryland	31-Jan	28-Feb		31-Jan		
Massachusetts	31-Jan	28-Feb	31-Mar	31-Jan		
Michigan	31-Jan	28-Feb		25-Jan		
Minnesota	31-Jan	28-Feb		31-Jan		
Mississippi	31-Jan	31-Jan	28-Feb	31-Jan		
Missouri	31-Jan	28-Feb		31-Jan		
Montana	31-Jan	28-Feb		31-Jan		
Nebraska	15-Feb	1-Feb		31-Jan		
Nevada				31-Jan		
New Hampshire				31-Jan		
New Jersey	15-Feb	28-Feb		30-Jan		
New Mexico	31-Jan	28-Feb		31-Jan		
New York	15-Feb			31-Jan		
North Carolina	31-Jan	28-Feb		31-Jan		
North Dakota	31-Jan	28-Feb	31-Mar	31-Jan		
Ohio	31-Jan	28-Feb		31-Jan		

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State	Form W-2 – employee copy	Form W-2 – state copy	Form W-2 – state copy extended due date electronic filers	Fourth-quarter SUI/SIT return	Form 940	Form 941
Oklahoma	31-Jan			31-Jan		
Oregon	31-Jan	31-Mar	31-Mar	31-Jan		
Pennsylvania	31-Jan	31-Jan		31-Jan		
Rhode Island	31-Jan	28-Feb		31-Jan		
South Carolina	31-Jan	28-Feb		31-Jan		
South Dakota				31-Jan		
Tennessee				31-Jan		
Texas				31-Jan		
Utah	31-Jan	28-Feb	31-Mar	31-Jan		
Vermont	31-Jan	28-Feb		31-Jan		
Virginia	31-Jan	28-Feb		31-Jan		
Washington				31-Jan		
West Virginia	15-Feb	28-Feb		31-Jan		
Wisconsin	31-Jan	31-Jan		31-Jan		
Wyoming				31-Jan		
Totals	43	39	12	51	1	1

No state income tax

Filing of Forms W-2 with state not required

Due date is extended to Feb. 29 in a leap year

*Based on Ernst & Young LLP survey of September 2010.

Appendix D-1: Employment and withholding tax returns
by due date (paper filers)*

25-Jan	30-Jan	31-Jan	1-Feb	15-Feb	28-Feb	31-Mar
MI SUI	NJ SUI	Fed Form 941	NE W-2 state	NE W-2 employee	Fed W-2 paper	IL W-2 state
		Fed Form 940		NJ W-2 employee	AL W-2 state	OR W-2 state (1)
		Fed W-2 employee		NY W-2 employee	AZ W-2 state	
				WV W-2 employee		
		AL SUI			AR W-2 state	
		AK SUI			CO W-2 state	
		AZ SUI			CT W-2 state	
		AR SUI			DE W-2 state	
		CA SUI			GA W-2 state	
		CO SUI			HI W-2 state	
		CT SUI			ID W-2 state	
		DE SUI			IN W-2 state	
		DC SUI			KS W-2 state	
		FL SUI			LA W-2 state	
		GA SUI			ME W-2 state	
		HI SUI			MO W-2 state	
		ID SUI			MA W-2 state	
		IL SUI			MI W-2 state	
		IN SUI			MN W-2 state	
		IA SUI			MT W-2 state	
		KS SUI			NJ W-2 state	
		KY SUI			NM W-2 state	
		LA SUI			NC W-2 state	
		ME SUI			ND W-2 state	
		MD SUI			OH W-2 state	
		MA SUI			RI W-2 state	
		MN SUI			SC W-2 state	
		MS SUI			UT W-2 state	
		MO SUI			VT W-2 state	
		MT SUI			VA W-2 state	
		NE SUI			WV W-2 state	
		NV SUI			MD W-2 state	
		NH SUI				
		NM SUI				
		NY SUI				
		NC SUI				
		ND SUI				
		OH SUI				
		OK SUI				
		OR SUI				
		PA SUI				

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25-Jan	30-Jan	31-Jan	1-Feb	15-Feb	28-Feb	31-Mar
		RI SUI				
		SC SUI				
		SD SUI				
		TN SUI				
		TX SUI				
		UT SUI				
		VT SUI				
		VA SUI				
		WA SUI				
		WV SUI				
		WI SUI				
		WY SUI				
		AL W-2 employee				
		AZ W-2 employee				
		AR W-2 employee				
		CA W-2 employee				
		CO W-2 employee				
		CT W-2 employee				
		DE W-2 employee				
		DC W-2 employee				
		GA W-2 employee				
		HI W-2 employee				
		ID W-2 employee				
		IL W-2 employee				
		IN W-2 employee				
		IA W-2 employee				
		KS W-2 employee				
		KY W-2 employee				
		LA W-2 employee				
		ME W-2 employee				
		MD W-2 employee				
		MA W-2				

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25-Jan	30-Jan	31-Jan	1-Feb	15-Feb	28-Feb	31-Mar	
		employee					
		MI W-2 employee					
		MN W-2 employee					
		MS W-2 employee					
		MO W-2 employee					
		MT W-2 employee					
		NM W-2 employee					
		NC W-2 employee					
		ND W-2 employee					
		OH W-2 employee					
		OK W-2 employee					
		OR W-2 employee					
		PA W-2 employee					
		RI W-2 employee					
		SC W-2 employee					
		UT W-2 employee					
		VT W-2 employee					
		VA W-2 employee					
		WI W-2 employee					
		DC W-2 state					
		KY W-2 state					
		MS W-2 state					
		PA W-2 state					
		WI W-2 state					
1	1	95	1	4	31	2	135

Due date is extended to Feb. 29 in a leap year

*Based on Ernst & Young LLP survey of September 2010.

Appendix D-2: Employment and withholding tax returns
by due date (electronic filers)*

25-Jan	30-Jan	31-Jan	1-Feb	15-Feb	28-Feb	31-Mar
MI SUI	NJ SUI	Fed Form 941	NE W-2 state	NE W-2 employee	AL W-2 state	Fed W-2 electronic
		Fed Form 940		NJ W-2 employee	AZ W-2 state	IL W-2 state
		Fed W-2 employee		NY W-2 employee	AR W-2 state	CT W-2 state
				WV W-2 employee		
		AL SUI			GA W-2 state	DE W-2 state
		AK SUI			HI W-2 state	ME W-2 state
		AZ SUI			ID W-2 state	MA W-2 state
		AR SUI			IN W-2 state	ND W-2 state
		CA SUI			KS W-2 state	OR W-2 state
		CO SUI			LA W-2 state	UT W-2 state
		CT SUI			MO W-2 state	CO W-2 state
		DE SUI			MI W-2 state	
		DC SUI			MN W-2 state	
		FL SUI			MT W-2 state	
		GA SUI			NJ W-2 state	
		HI SUI			NM W-2 state	
		ID SUI			NC W-2 state	
		IL SUI			OH W-2 state	
		IN SUI			RI W-2 state	
		IA SUI			SC W-2 state	
		KS SUI			VT W-2 state	
		KY SUI			VA W-2 state	
		LA SUI			WV W-2 state	
		ME SUI			DC W-2 state	
		MD SUI			MS W-2 state	
		MA SUI			MD W-2 state	
		MN SUI				
		MS SUI				
		MO SUI				
		MT SUI				
		NE SUI				
		NV SUI				
		NH SUI				
		NM SUI				
		NY SUI				
		NC SUI				
		ND SUI				
		OH SUI				
		OK SUI				
		OR SUI				
		PA SUI				

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25-Jan	30-Jan	31-Jan	1-Feb	15-Feb	28-Feb	31-Mar
		RI SUI				
		SC SUI				
		SD SUI				
		TN SUI				
		TX SUI				
		UT SUI				
		VT SUI				
		VA SUI				
		WA SUI				
		WV SUI				
		WI SUI				
		WY SUI				
		AL W-2 employee				
		AZ W-2 employee				
		AR W-2 employee				
		CA W-2 employee				
		CO W-2 employee				
		CT W-2 employee				
		DE W-2 employee				
		DC W-2 employee				
		GA W-2 employee				
		HI W-2 employee				
		ID W-2 employee				
		IL W-2 employee				
		IN W-2 employee				
		IA W-2 employee				
		KS W-2 employee				
		KY W-2 employee				
		LA W-2 employee				
		ME W-2 employee				
		MD W-2 employee				
		MA W-2				

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25-Jan	30-Jan	31-Jan	1-Feb	15-Feb	28-Feb	31-Mar	
		employee					
		MI W-2 employee					
		MN W-2 employee					
		MS W-2 employee					
		MO W-2 employee					
		MT W-2 employee					
		NM W-2 employee					
		NC W-2 employee					
		ND W-2 employee					
		OH W-2 employee					
		OK W-2 employee					
		OR W-2 employee					
		PA W-2 employee					
		RI W-2 employee					
		SC W-2 employee					
		UT W-2 employee					
		VT W-2 employee					
		VA W-2 employee					
		WI W-2 employee					
		KY W-2 state					
		PA W-2 state					
		WI W-2 state					
1	1	93	1	4	25	10	135

Due date is extended to Feb. 29 in a leap year

*Based on Ernst & Young LLP survey of September 2010.

Appendix E: Sample SUI wage definition variations*

State	Exclude certain severance payments	Include Sec. 125 pretax	Include employer 401(k)	Exclude employee 401(k) pretax	Authority
Alabama	x	x			Alabama Employer Handbook, p. 22
Alaska	x	x		x	Alaska UI Tax Handbook, p. 13-14 and 19-20
Arkansas			x		Arkansas UI Handbook for Arkansas Employers, p. 7
California	x				California Employer's Guide (DE-44), p. 18, 26-35
Colorado		x			Colorado UI Handbook for Employers, p. 7-8
Connecticut		x			Connecticut: An Employer's Guide to UI, p. 11
Delaware		x			Delaware UI Handbook for Employers, p. 15
Illinois			x		Illinois UI Law Handbook, p. G-12-G-13
Iowa		x			Iowa UI Handbook for Employers, p. 36
Kansas					Kansas UI Employer Handbook, p. 7-8
Kentucky	x				Kentucky UI Employer Guide, p. 15-16
Massachusetts		x	x		Massachusetts Guide to Covered Wages (Fact Sheet P-1614)
Michigan	x	x			Michigan Employer Guide to Wage Reporting, p.22
Minnesota		x			Minnesota UI Employer Handbook, p. 6-8
Mississippi					Mississippi SUI FAQs (website)
Missouri					Types of Payments (website)
Montana		x			Montana UI Employer Handbook, p. 4-8
Nevada		x			Nevada Employer Handbook , p. 13-16
New Hampshire		x			New Hampshire SUI FAQs (website)
New Jersey		x			New Jersey Employer Handbook. P. 19-20
New York	x	x			New York NYS-50. p 12-13
North Dakota		x			North Dakota Employer Handbook, p. 10-11, 14
Oklahoma	x				Oklahoma Employer's Guide to UI, p. 12-13
Rhode Island				x	Rhode Island Employer Handbook. P. 6
South Dakota	x				South Dakota UI Handbook for Employers, p. 7-8

Business processes and considerations in meeting employee wage reporting deadlines

2011

State	Exclude certain severance payments	Include Sec. 125 pretax	Include employer 401(k)	Exclude employee 401(k) pretax	Authority
Tennessee		x			Tennessee Handbook for Employers, p.25-26
Vermont		x			Vermont Employer Informational Manual , 9-10; Cafeteria and 401(k) FAQ (website)
Virginia					Virginia Wage definition FAQ (website)
Washington		x			Washington UI Tax Information, p. 4
West Virginia	x	x			West Virginia Handbook for Employers, p. 11-12
Wyoming	x				Wyoming Cafeteria plan FAQ (website); Severance pay FAQ (website)
51	10	19	3	2	

*Based on Ernst & Young LLP survey of July 15, 2011.

Ernst & Young LLP was engaged by the National Payroll Consortium, Inc. to conduct an independent, objective and factual analysis of the challenges businesses face in timely meeting wage and tax reporting deadlines. This report expresses no position on any legislative or regulatory activity of the National Payroll Consortium, Inc.

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