

# Tax issues prevail at American Payroll Association's Capitol Summit

The IRS tipped its hand on some key payroll-related tax issues and other potential changes at this year's American Payroll Association Capitol Summit, held March 25 and 26, 2019, in Washington, D.C. Here's the rundown.

**Backup withholding.** Within the next couple of months, the IRS will initiate a new program dealing with backup withholding issues, said Daniel Lauer, IRS director of examination operations and specialty tax. This new IRS scrutiny may take the form of correspondence audits. *What the IRS will look at:* According to Lauer, the IRS will look for discrepancies between employers that filed Forms 1099-MISC, reporting the withholding to payees, without also filing Forms 945, reporting the withholding to the IRS.

Generally, you must backup withhold when you pay contractors at least \$600, but they fail to provide their Taxpayer Identification Numbers—Employer Identification Numbers or Social Security numbers—prior to your first payment. It continues until contractors provide you with their TINs. Backup withholding is also mandatory if you fall into the IRS' B Notice program.

**Information reporting for independent contractors.** Currently, you must file Forms 1099-MISC by Jan. 31 if you're reporting payments to independent contractors in Box 7. The due dates for 1099-MISC forms reporting information in any other box remain Feb. 28 (paper filing) or March 31 (e-filing). These split reporting dates are creating problems for employers.

Jim Paille, an APA rep on the IRS Advisory Council, noted the IRS may revive Form 1099-NEC, *Nonemployee Compensation*. The last time the IRS used Form 1099-NEC was for the 1982 tax year. Beginning in 1983, nonemployee compensation was included on Form 1099-MISC. However, Paille mentioned that this project won't move onto the front burner until perhaps 2021. To ease the burden on employers, box placement on a new Form 1099-NEC would be configured to mirror Form 1099-MISC.

**On-demand pay.** Uber drivers have on-demand pay. While independent contractors and their payers can devise any payment schedule that's convenient for both parties, employees haven't traditionally had that luxury, since employers are locked into static pay periods. Nevertheless, more and more employees say they want on-demand pay. Lauer said the IRS will be posting FAQs on the IRS' website and it may also issue other guidance.