



## **IRS relaxes registration requirements for Professional Employer Organizations; Form 941, Schedule R required**

In [Notice 16-49](#), the IRS provides interim guidance relaxing certain requirements for the voluntary Certified Professional Employer Organization (CPEO) program.

In other developments, the IRS has issued [draft Form 941, Schedule R](#) that is required to be attached to Forms 941 filed by CPEOs. CPEOs complete new column (b) “*Type of wages, tips and other compensation.*”

### **Background**

As we reported in EY *Payroll NewsFlash* Vol. 16, #012 (1-8-2015), CPEOs will be recognized as the employing unit for federal employment tax purposes. Choosing to become a CPEO offers several benefits to Professional Employer Organizations (PEOs) and their clients. For instance, employment tax costs are reduced by allowing the CPEO to consider year-to-date Social Security (FICA) and federal unemployment (FUTA) taxable wage bases when it enters into a co-employment relationship with its clients. The issue of liability is also resolved for CPEO clients since they are not responsible for federal employment taxes a CPEO fails to remit. (*Public Law No: 113-295; H.R.5771*)

In EY *Payroll NewsFlash* Vol. 17, #081 (5-25-2016), the IRS issued [temporary](#) and [proposed](#) regulations that describe the application process and certification requirements necessary for obtaining CPEO status. The proposed regulations also explain the federal employment tax liabilities and other obligations of a CPEO. As we reported in EY *Payroll NewsFlash* Vol. 17, #101 (7-7-2016), the IRS then [released](#) details on how professional employee organizations (PEOs) can apply for certification.

The IRS began in July 2016 to accept online applications for PEO certification. For more details, see the IRS [website](#).

All of the most recent guidance governing CPEOs is available [here](#).

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## **Interim guidance issued as result of taxpayer comments**

The IRS received comments indicating that certain provisions of the regulations and Revenue Procedure Rev. Proc. [2016-33](#), (6-4-2016) may unnecessarily limit the ability to apply for and maintain CPEO certification, including the requirement that:

- (1) A certified public accountant (CPA) opinion be submitted that shows that the PEO's annual audited financial statements reflect positive working capital (or meet certain rules that permit negative working capital in limited circumstances) and that it computes its taxable income using an accrual method of accounting
- (2) a CPEO applicant submit a written declaration of an independent CPA, who submits opinions and attestations regarding the CPEO applicant's annual audited financial statements and ongoing federal employment tax compliance, declaring that the CPA is authorized to represent the CPEO applicant before the IRS
- (3) a CPEO be a business entity that is not a disregarded entity

Notice 16-49 describes modifications to these requirements that the IRS intends to make when publishing final regulations and updating the revenue procedure. Taxpayers may rely on the guidance provided in Notice 16-49 until the final regulations and updated revenue procedure are published.

In addition, Treasury and IRS are aware that, for PEOs submitting certification applications during the first year of the program, the audited financial statements that must be included as part of the application might not include some of the elements required by the regulations because the statements relate to fiscal years that end before or shortly after the regulations were issued. To address this issue, Notice 16-49 provides transition relief for meeting the audited financial statement requirements in the regulations and revenue procedure.

Finally, in recognition that the notice provides interim guidance on requirements applicable to PEOs which may already be engaged in the process of applying for certification as a CPEO, Notice 16-49 extends to September 30, 2016, the deadline by which a complete and accurate application for certification must be submitted in order to be eligible for an effective date of certification of January 1, 2017.

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