INTERNAL REVENUE SERVICE

IRS Fact Sheet

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Information on the Questionable Employment Tax Practices Memorandum of Understanding

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QETP Definition: Questionable employment tax practices (QETP) are employment tax schemes or practices that have no objective other than to avoid federal and/or state employment taxes.

General Overview of the Initiative

• The QETP initiative is a collaborative, nationwide program seeking to identify employment tax schemes and illegal practices and increase voluntary compliance with employment tax rules and regulations. The Internal Revenue Service, the National Association of State Workforce Agencies, the U.S. Department of Labor, the Federation of Tax Administrators and the state workforce agencies of California, Michigan, New Jersey, New York and North Carolina worked together to develop the QETP initiative and endorse the memorandum of understanding (MOU) as a tool to help increase employment tax compliance at the federal and state levels.

• The MOU allows the IRS and the state workforce agencies to exchange audit reports and audit plans, and to participate in side-by-side examinations, when appropriate.

• The QETP initiative provides, for the first time, a centralized and uniform mechanism for IRS and state employment tax data exchanges.

• The MOU is a joint effort between the IRS, the states and other federal agencies. All of the participating agencies worked together on various facets of the MOU from the initial draft, to implementation, to communication, to design and provision of outreach and educational materials.

• A QETP oversight team oversees all program activities. The team is comprised of representatives from each of the participating agencies. The states participating on the oversight team are California, Michigan, New Jersey and North Carolina.

• The Department of Labor endorsed participation in the QETP MOU this year in a program letter the agency sent to all 50 states. Also, a Government Accountability Office report last year also encouraged participation in the agreement.

Purpose of the MOU

The MOU facilitates cooperation and information sharing between the IRS and state workforce agencies; increases compliance with federal and state employment tax filing and payment regulations; increases compliance with Form 1099 and and Form W-2 filing; increases collection of federal and state employment/unemployment tax debts; enhances efforts to reduce the tax gap at the federal and state levels and ensure that businesses are all operating on a competitive level playing field by ensuring that everyone pays their proper share of employment taxes; and leverages IRS, state and other federal agency resources to improve compliance with employment tax laws.

MOU Participants

The MOU is intended to facilitate information sharing between the IRS and state workforce agencies that have an existing Agreement on Coordination of Tax Administration (Basic Agreement) with the IRS and an Implementing Agreement on Coordination of Tax Administration with the IRS. The following parties will participate in the MOU: the IRS Small Business/Self-Employed Specialty Tax Division and the state workforce agencies.

Currently, 29 states have signed the exchange agreement with the IRS. They are: Arizona, Arkansas, California, Colorado, Connecticut, Hawaii, Idaho, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, Wisconsin.

What Will Happen under the MOU

• The IRS and the participating state workforce agencies will exchange employment tax information for civil cases, which primarily are intended to evade or inappropriately reduce employment tax liabilities.

• The IRS and the states may exchange information using either actual employment tax reports or a template compatible with federal and state information that the oversight team has developed.

• The IRS and the states may participate in coordinated enforcement efforts. The MOU will allow the IRS and the state workforce agencies to share independently conducted examination results or work side by side on an examination.

• The IRS and the states will strive to be consistent with their examination results, reducing the chances that states might classify a worker as an employee while the IRS classifies the worker as an independent contractor, or vice versa.

• The IRS and the states will share employment tax training opportunities and materials.

• The IRS and the states will also share outreach opportunities to the business community whenever practical.

The QETP and Taxpayer Privacy

The MOU meets all disclosure provisions to ensure the privacy of taxpayer information. Additionally, all participating states must demonstrate they have systems in place to ensure the safety of any IRS data they receive as a part of the information exchange agreement.

QETP Beyond the MOU

• The members of the oversight team will meet on a regular basis to discuss issues of concern, review MOU actions and make recommendations for improvements in partnership activities.

• The team will monitor trends and developing issues.

• The members of the oversight team will strive to create uniform processes with all stakeholders in mind. The team will draft and promote legislative changes in an effort to achieve nationwide standardization and to create a level playing field for all employers.

• Recommendations for legislative proposals will focus on reducing taxpayer burden and confusion, promoting fairness and confidence in the tax system and reducing non-compliance with federal and state employment tax laws.

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