



## **IPA SUMMARY OF FAIR TREATMENT OF PAYROLL CARD ACCOUNTS UNDER STATE UNCLAIMED PROPERTY LAWS**

Over 5.9 million Americans use payroll card accounts (“Payroll Card Accounts”) to receive their wage payments. Payroll Card Accounts are non-traditional deposit accounts, held at a financial institution, that allow employees without traditional bank accounts and those with limited access to traditional financial services to enjoy the convenience and security that their coworkers experience with direct deposit. Without Payroll Card Accounts, many underserved workers are forced to operate outside of the financial mainstream and are unable to enjoy the benefits of electronic wage payment. Thus, because Payroll Card Accounts are distinct from wages or checks, they should not be treated in the same manner as wages or checks under unclaimed property regulations.

Many people without access to Payroll Card Accounts turn to comparably more expensive services such as a check cashing business to access their wages. These people then incur additional expense and time in order to perform the most basic financial tasks such as paying bills, a process that often requires them to first purchase money orders. By contrast, Payroll Card Accounts provide employees with electronic payment options that are not available to unbanked individuals, such as online bill payment, online shopping, the ability to reserve a hotel room and more. Moreover, Payroll Card Accounts provide employees with prompt access to full wages on payday even when the employee is away from the workplace or in situations where normal delivery of paper paychecks is disrupted (e.g., severe weather conditions and natural disasters).

Treating Payroll Card Accounts in the same manner as wages paid by checks does not fairly reflect the fact that Payroll Card Accounts are structured to operate like consumer asset accounts and do not operate the same as wages paid with a check. Specifically, in the case of wages paid through payroll checks, the employer retains control of the wages until the check is cashed by the employee or remitted by the employer to the state as unclaimed property. The wages are never effectively “claimed” by the employee until the pay check is cashed.

Payroll Card Accounts do not operate in this manner. In the case of Payroll Card Accounts, wages from the employer are deposited directly into an account that is controlled by the employee at the time that the wages are paid. Payroll Card Accounts give the employee the ability to access and use the wages at the time they are paid because loading wages onto a Payroll Card Account is no different than depositing wages into a checking account owned by the employee. In light of this structure, Payroll Card Accounts are more closely aligned with other consumer deposit accounts, and consumers would expect unclaimed property rules for Payroll Card Accounts to mirror the rules for other deposit accounts.

It is also worth noting that, because Payroll Card Accounts operate in the same manner as consumer asset accounts, Payroll Card Accounts offer workers the same benefits and protections that apply to traditional bank accounts today and have done so since 2006. In particular, Payroll Card Accounts are classified as “Accounts” under the Electronic Fund Transfer Act and Regulation



E. This means that Payroll Card Accounts are subject to numerous consumer protection requirements including the provision of: (i) account opening disclosures; (ii) limited liability for unauthorized transactions and error resolution (including provisional credit); and (iii) transaction histories and statements to consumers. Additionally, many Payroll Card Account programs offer program features that consumers have come to expect from mainstream financial service providers, including online bill pay, savings functions, and mobile check cashing. As a counter-example to these benefits, consider that a recipient of a paycheck does not receive the same Regulation E protections as a recipient of payments via a payroll card. This means that if an employee's check is lost or stolen, her funds will likely not be recoverable.

In addition to the benefits and consumer protections that Payroll Card Accounts offer consumers, the ability to pay employees electronically provides benefits to employers as well. Specifically, Payroll Card Accounts allow employers to deliver wages in a timely manner to all employees, including those who do not participate in direct deposit. This is true even when employees are away from the workplace and, as noted above, during periods of severe weather and natural disasters, when mail and in-person delivery can be impeded, delayed, or impossible. Payroll Card Accounts also allow employers to enjoy administrative efficiencies and, in many instances, cost savings.