

Payroll Forum

Payroll Compliance Group

Spring 2015

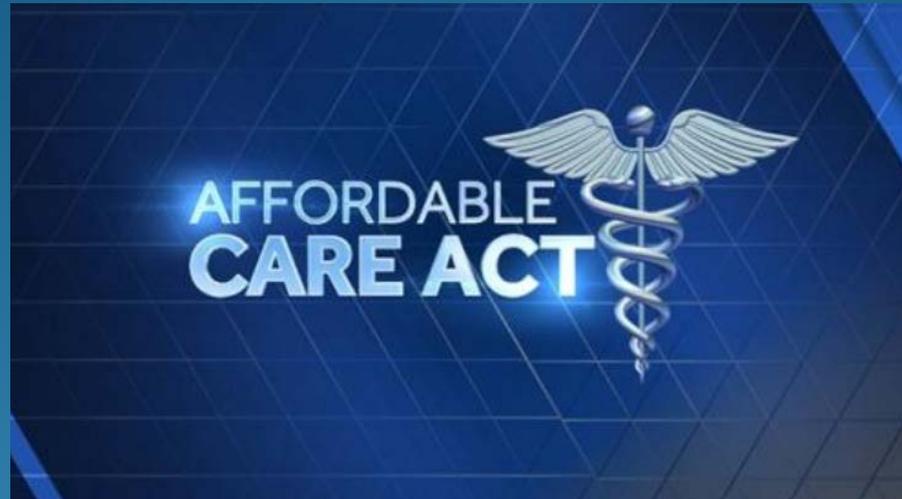


PAYROLL COMPLIANCE GROUP (PCG)

- **Debra Cormier – State Payroll Compliance Administrator**
 - Debra.Cormier@state.de.us
 - 302-672-5543
 - Statewide Payroll Regulatory Compliance
 - Payroll Policies
- **Vacant – Payroll Compliance Officer**
 - Payroll Planner
 - Internal Control Plans
 - Payroll Administration Training Delivery
- **Micheale Lessard– Payroll Compliance Analyst**
 - Micheale.Lessard@state.de.us
 - 302-672-5517
 - Payroll Authorizations
 - Wage Overpayments / Repayments
 - Wilmington City Wage Tax
 - Direct Deposit Participation

Agenda

- The Affordable Care Act – Brenda Lakeman
 - IRS Regulations Compliance
- American Payroll Association Capital Summit Review
- State of Delaware Internal Controls – Two Years In
- Open Discussion:
 - Special Payouts
 - Deceased, Retired, Terminations, Settlements
 - Taxes, Deferred Compensation, Garnishments
 - Wage Overpayment Repayments
- On the Horizon



Affordable Care Act

Brenda Lakeman



American Payroll Association Capital Summit Review

What's New At The IRS

- Notice 2015-2 – Employer provided transit benefits retroactive increase for 2014
 - Commuter Transit Parity Tax Break
 - Matches \$250/Month for Parking
- Lobbying to require Tax Preparers to complete certification process and continuing education opportunities

What's New At The SSA

- **my**Social Security
- Your Online Account...Your Control
 - Easy-to-access
 - Easy-to-use portal to view and update some of your own Social Security information.
 - <http://www.ssa.gov/myaccount/>



mySocial Security Services

- If you don't get benefits, you can
 - View, save, and print your online Social Security Statement
- If you do get benefits
 - Get your benefit verification letter;
 - Check your benefit and payment information and your earnings record;
 - Change your address and phone number; and
 - Start or change your direct deposit.



Online Social Security Statement

- Estimates of the retirement and disability benefits you may receive;
- Estimates of benefits your family may get when you receive Social Security or die;
- A list of your lifetime earnings according to Social Security's records;
- The estimated Social Security and Medicare taxes you've paid
- Information about qualifying and signing up for Medicare; and
- A printable version of your Social Security Statement

What's New At Immigration Enforcement

- Prohibited Conduct Under Immigration and Nationality Act's Anti-Discrimination Provision
 - Citizenship/Immigration status discrimination
 - National origin discrimination
 - Document Abuse
 - Retaliation or Intimidation

Citizenship/Immigration Status Discrimination

- Treating individuals who are eligible to work differently because they are, or are not, U.S. citizens, or based on their immigration status
 - “U.S. citizens” only hiring policy
 - Refusing to hire because the worker is “believed” to not be a U.S. citizen
 - Preferring temporary work visa holders

National Origin Discrimination

- Treating employees differently based on:
 - Country of origin/ancestry
 - Accent
 - “Appearing” to be from a certain country
- With respect to Hiring, Firing, and Recruitment
 - Preferring people from a particular country
 - Only hiring “native English speakers”
 - Not hiring someone because of a foreign accent

Document Abuse

- Employers may not, for the purpose of verifying a worker's employment eligibility:
 - Request more or different documents
 - Reject reasonably genuine-looking documents
 - Specify certain documents based on citizenship status or national origin

Document Abuse & Form I-9

- The Form I-9's purpose is to establish a worker's identity and work authorization
- All employees working in the United States must complete an I-9 form
- The form has 3 sections
 - Employee completes Section 1 after accepting a job offer and by the first day of work
 - Employer completes Section 2 within 3 business days of the first day of work.
 - Employer is responsible for ensuring the employee completes Section 1 properly.

Preventing Form I-9 Section 2 Discrimination

- An employer must allow the employee to present his or her choice of documentation to complete the I-9 Form
- An employer may not ask for specific or more documents, or reject a valid document
- Treat all employees the same regardless of citizenship status or national origin

Form I-9 Section 2

Common Problems

- Requiring non-U.S. citizens to produce a List A document but allowing U.S. citizens to produce any document they choose
- Requiring non-U.S. citizens to produce documents from Lists A, B, and C (See Next Slide)
- Requiring certain U.S. citizens to produce a certificate of naturalization
- Rejecting documents that are valid based on citizenship status or national origin
- Failing to consult the current version of the Handbook for Employers or USCIS's I-9 Central website
 - <http://www.uscis.gov/i-9-central>

All documents must be UNEXPIRED

Employees may present one selection from List A
or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card	OR	1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	AND	1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Certification of Report of Birth issued by the Department of State (Form DS-1350)
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record		5. Native American tribal document
		6. Military dependent's ID card		6. U.S. Citizen ID Card (Form I-197)
		7. U.S. Coast Guard Merchant Mariner Card		7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		8. Native American tribal document		8. Employment authorization document issued by the Department of Homeland Security
		9. Driver's license issued by a Canadian government authority		
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor, or hospital record		
	12. Day-care or nursery school record			

Form I-9 Section 3 (Reverification and Rehires)

Section 3. Reverification and Rehires <i>(To be completed and signed by employer or authorized representative.)</i>			
A. New Name <i>(if applicable)</i> Last Name <i>(Family Name)</i>		First Name <i>(Given Name)</i>	Middle Initial
<input type="text"/>		<input type="text"/>	<input type="text"/>
B. Date of rehire <i>(if applicable)</i> (mm/dd/yyyy):			
<input type="text"/>			
C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.			
Document Title:	Document Number:	Expiration Date <i>(if any)</i> (mm/dd/yyyy):	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.			
Signature of Employer or Authorized Representative:	Date (mm/dd/yyyy):	Print Name of Employer or Authorized Representative:	
<input type="checkbox"/> Signature Validation	<input type="text"/>	<input type="text"/>	

- Reverify Expiring Employment Authorization Documents.
 - Cannot continue to employ with expired EAD.
 - Must pay for work performed even if EAD has expired.
- U.S. citizens, Permanent Resident Cards (green cards), and List B documents should not be reverified!
- Employer must accept a List A or List C document (i.e., unrestricted social security card)

Retaliation or Intimidation

- Protects all individuals who:
 - File charges with Office of Special Counsel (OSC)
 - Cooperate with an OSC investigation
 - Contest action that may constitute unfair documentary practice
 - Assert their own or others' rights under the INA's anti-discrimination provision
- Protects from what?
 - Intimidation, threats, coercion, and retaliation

No Social Security Number

- If the employee is eligible to work but has no SSN, you may hire them and allow them to work.
- Employees get a reasonable period of time to get their Social Security Card.
- If an SSN is not provided prior to year-end processing, the IRS and SSA accept all zeroes for the SSN. This is managed centrally at PHRST; no action is required by the Organization.
 - A Form W-2c is required once the employee receives a Social Security Card and shows it to the employer.

Social Security Number No-Match

- A notice that the employee name and Social Security Number (SSN) submitted by employer do not match SSA records
- Do not assume no-match notice is evidence of undocumented status or lack of work authorization
- Follow same procedures for all employees, regardless of citizenship status or national origin
- Give the employee a reasonable period of time to resolve any discrepancy in their records
- Reasonable period of time is not defined; generally accepted practice is 8 government business days

Social Security Number Verification Service (SSNVS)

- SSNVS is not a substitute for verifying employment eligibility
- May be used only for wage reporting (W-2) purposes
- It is illegal to use SSNVS before hiring a worker
- Must apply SSNVS consistently to all workers

Immigration Enforcement Employee Tools

- Many forms are available in foreign languages (18)
 - <http://www.uscis.gov/e-verify/publications/foreign-language-resources>
 - Forms may be printed in native language to enhance understanding of what is being filled out
- I-9 Webinar available On Demand
 - <http://www.uscis.gov/i-9-central/form-i-9-webinar-deman-entire-video>

KNOW THE LAW!!!

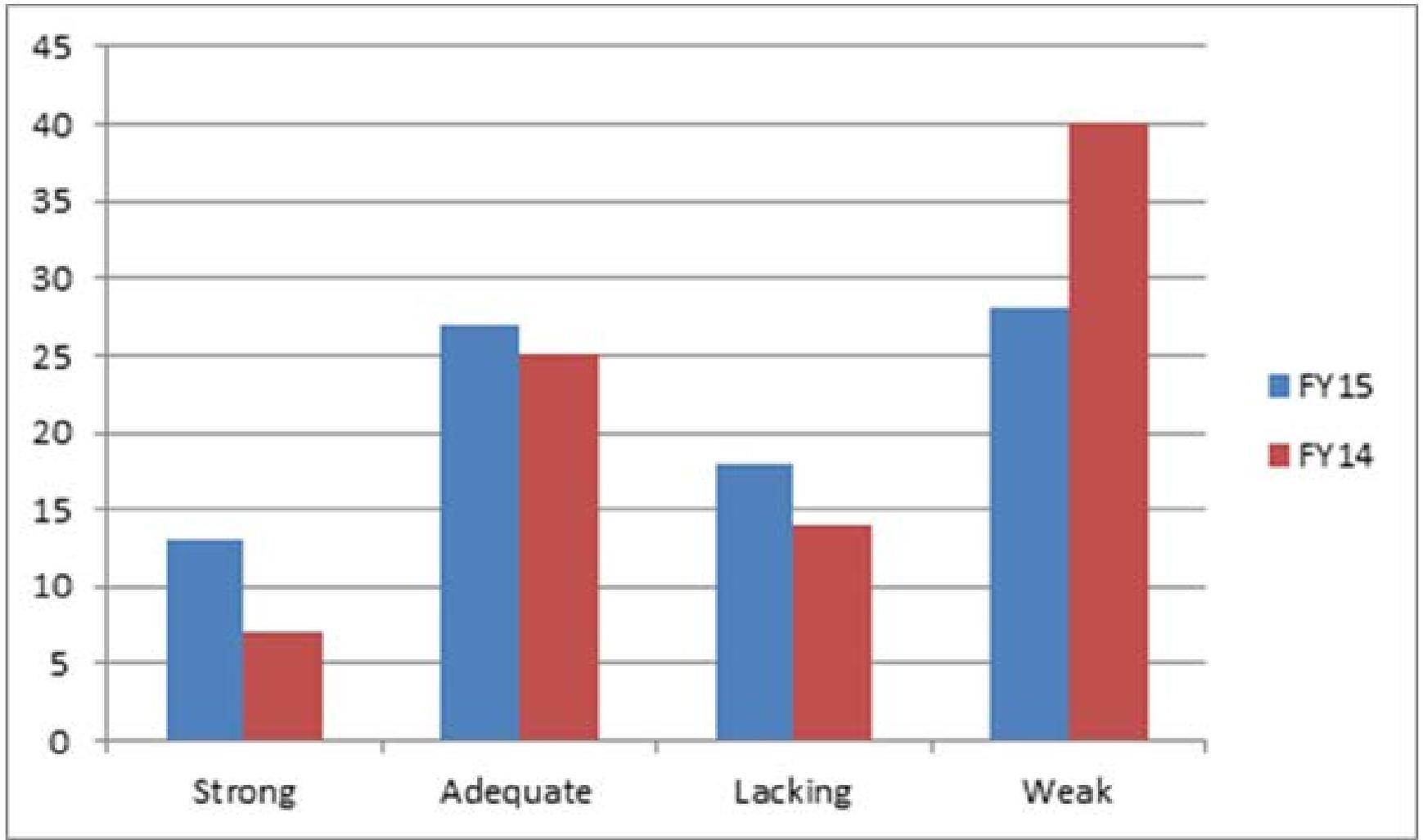
Employing Unauthorized Aliens

- Under IRCA (8 U.S.C. S1324a(a)(2)), it is unlawful for an employer, after hiring an alien, to continue to employ the alien in the U.S. “knowing” the alien is (or has become) unauthorized with respect to such employment.
- An employer can violate this section by having knowledge that an employee is unauthorized to work and allowing the individual to continue to work.

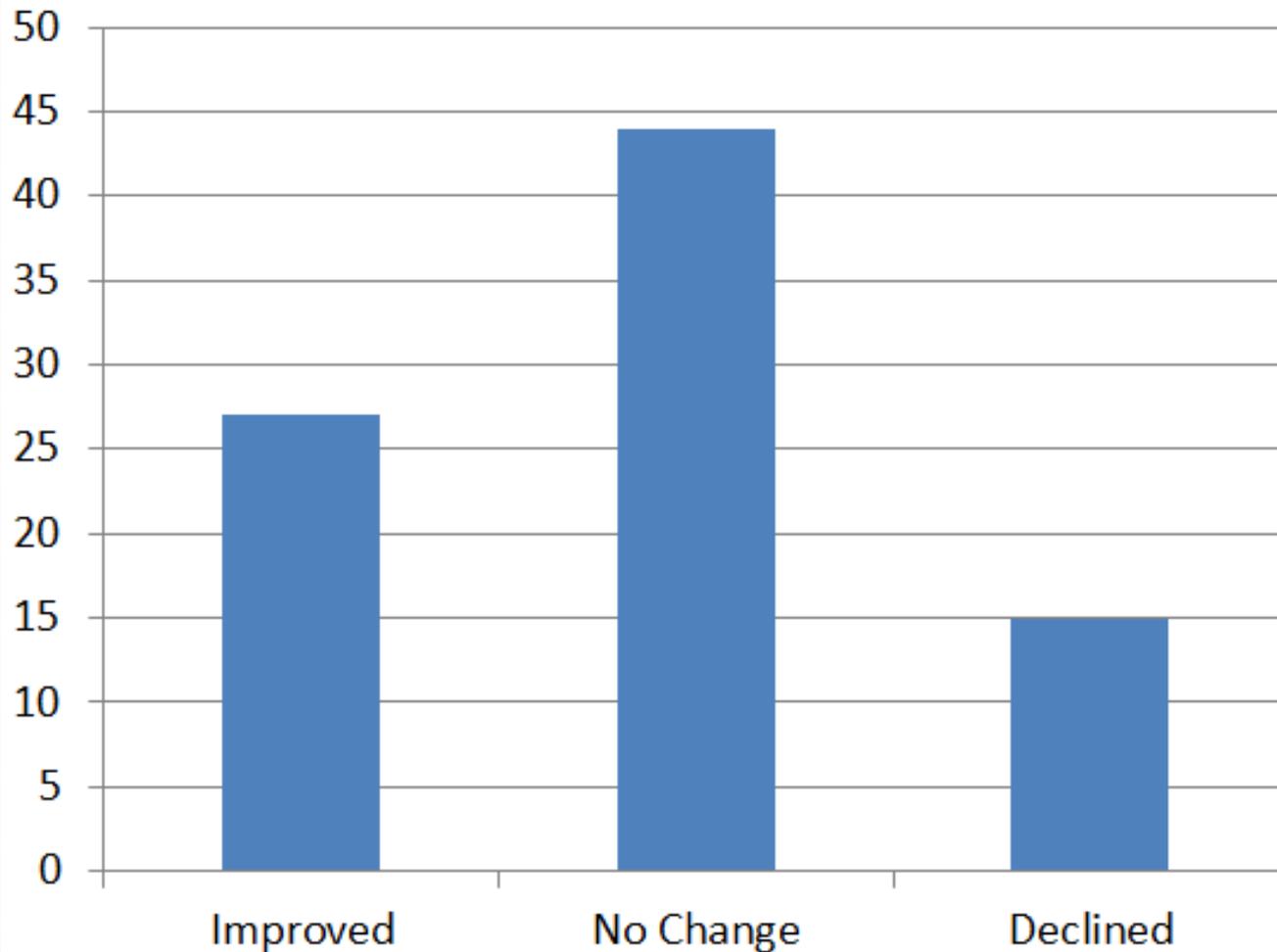


Internal Controls Two Years In

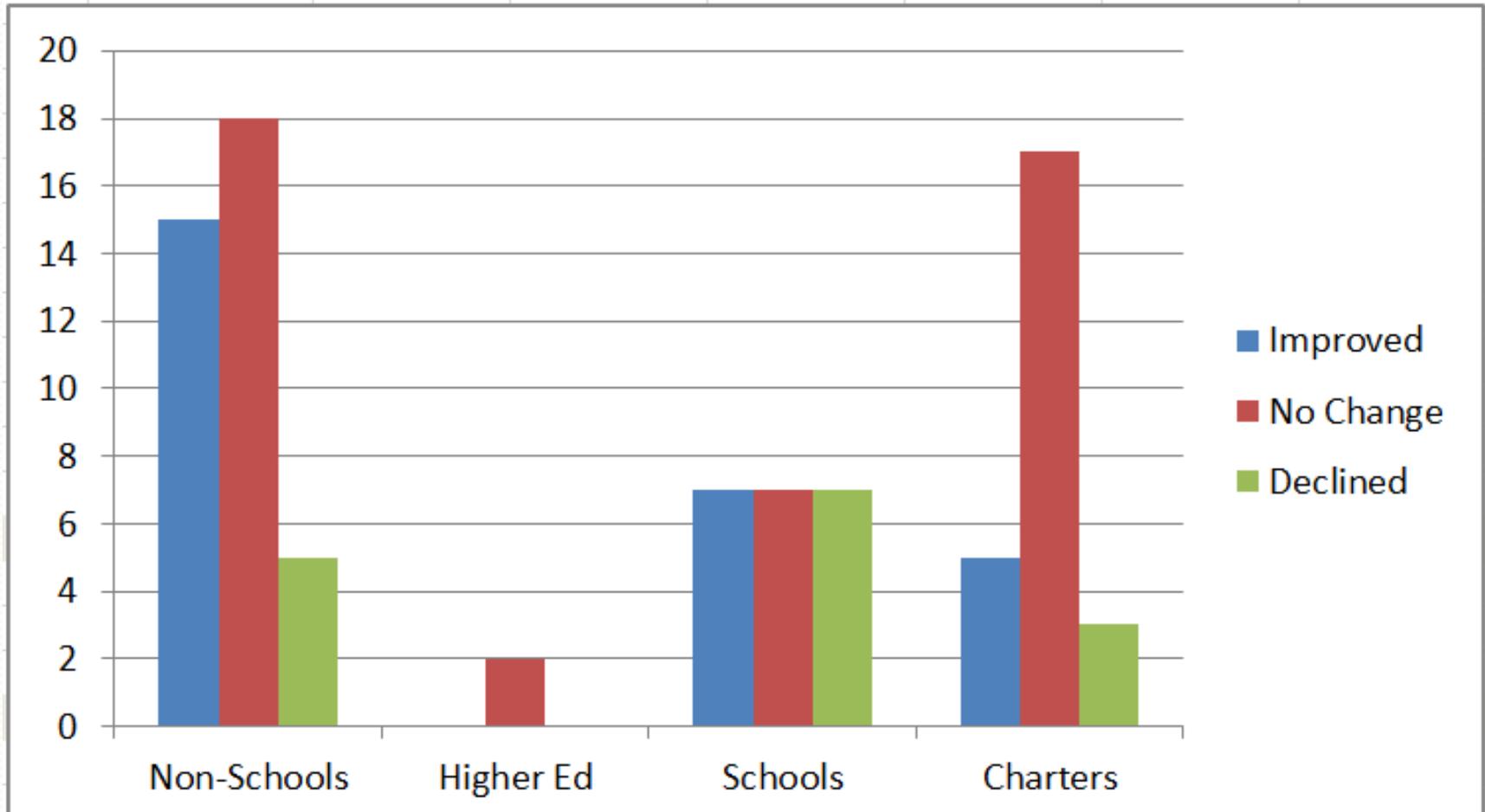
Statewide Internal Controls



All State Organizations FY15 / FY14 Compare

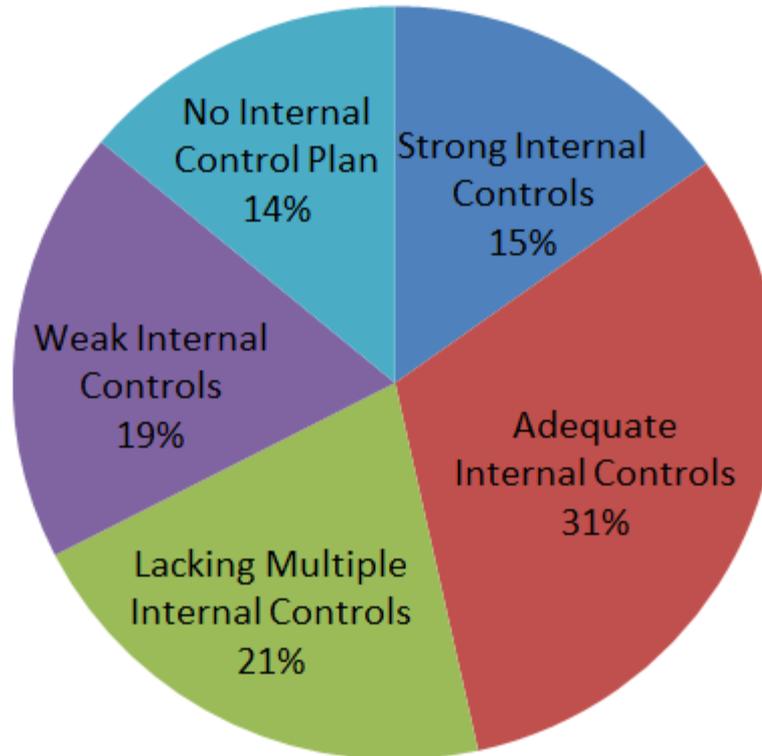


Internal Controls Stats



A LONG WAY TO GO...

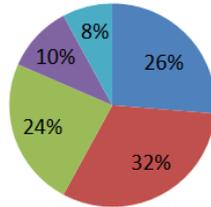
All Organizations



Internal Controls Stats

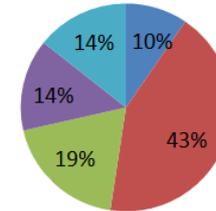
Non-Schools

- Strong Internal Controls
- Adequate Internal Controls
- Lacking Multiple Internal Controls
- Weak Internal Controls
- No Internal Control Plan



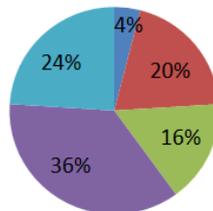
Schools

- Strong Internal Controls
- Adequate Internal Controls
- Lacking Multiple Internal Controls
- Weak Internal Controls
- No Internal Control Plan



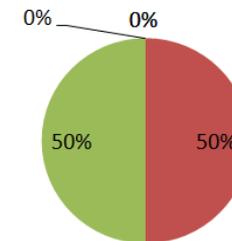
Charters

- Strong Internal Controls
- Adequate Internal Controls
- Lacking Multiple Internal Controls
- Weak Internal Controls
- No Internal Control Plan

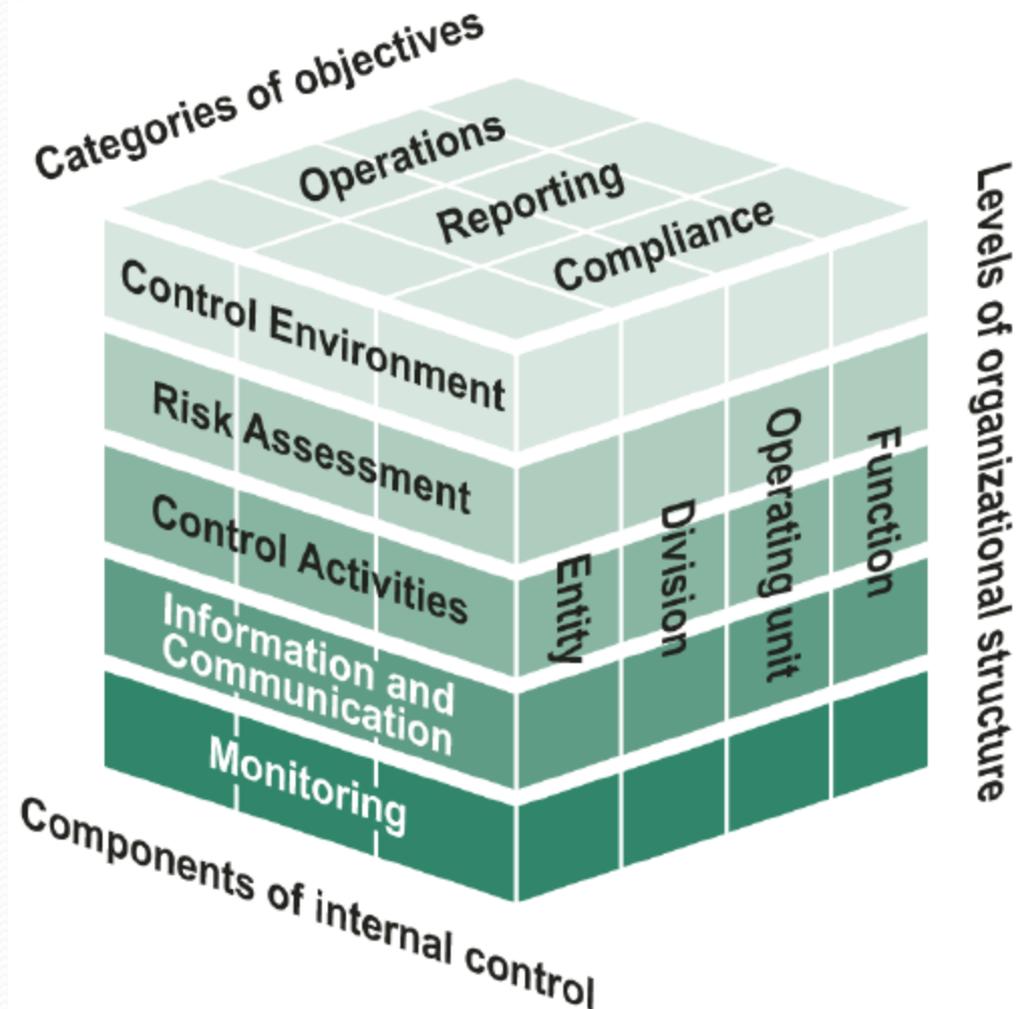


Higher Ed

- Strong Internal Controls
- Adequate Internal Controls
- Lacking Multiple Internal Controls
- Weak Internal Controls
- No Internal Control Plan



Principles of Internal Controls



Source: Standards for Internal Control in the Federal Government

Control Environment

- Management should
 - Demonstrate a commitment to integrity and ethical values
 - Establish an organizational structure, assign responsibility, and delegate authority to achieve objectives
 - Evaluate performance and hold individuals accountable for their internal control responsibilities

Risk Assessment

- Management should
 - Define objectives clearly to enable risk identification and risk tolerances
 - Consider the potential for fraud when identifying, analyzing, and responding to risks
 - Identify, analyze, and respond to significant changes that could impact the internal control system

Control Activities

- Management should
 - Design control activities to achieve objectives and respond to risks
 - Implement control activities through policies

Information & Communication

- Management should
 - Use quality information to achieve objectives
 - Internally communicate the necessary quality information to achieve objectives
 - Externally communicate the necessary quality information to achieve objectives

Monitoring

- Management should
 - Establish and operate monitoring activities to monitor the internal control system and evaluate the results
 - Remediate identified internal control deficiencies on a timely basis

Questions?
Comments?



OPEN DISCUSSION

Special Payment
Considerations

Deceased Employees

Final Check

Tax Reporting

Employee Dies Before Cashing a Received Paycheck

- Income and employment taxes were withheld properly.
- Employer should reissue the paycheck payable to the employee's personal representative for the same net amount.
- All aspects of this paycheck are included on the deceased employee's Form W-2.

Wages Paid After Death in Same Tax Year

- Not Subject to Federal Income Tax **Withholding**
 - The amount of the taxable income should be reported only in Box 3 (Other) of Form 1099-MISC in the name of the beneficiary of the payment
- Subject to OASDI/Medicare Withholding
 - Social Security and Medicare Wages and the amounts withheld are reported on the deceased employee's Form W-2.

Wages Paid After Year of Death

- Not Subject to Federal Income Tax **Withholding**
 - The amount of the taxable income should be reported only in Box 3 (Other) of Form 1099-MISC in the name of the beneficiary of the payment
- Not Subject to OASDI/Medicare Taxes or Withholding

Deceased Employee Final Paycheck

- Make payable “To The Estate of _____”
- Tax Reporting
 - Wage Payment for Time Worked
 - Exempt from Income Taxes
 - Reported on Form 1099-MISC
 - Subject to OASDI & Medicare
 - Reported on Form W-2
 - Vacation Leave Payout
 - Exempt from Income Tax
 - Reported on 1099 Form
 - Subject to OASDI & Medicare
 - Sick Leave Payout
 - Exempt from Income Tax
 - Reported on 1099 Form
 - Exempt from OASDI & Medicare

Retiring Employees

Final Check

Leave Payouts

Deferred Compensation

Retired Employee Final Paycheck

- Tax Reporting
 - Wages and Sick & Vacation Leave Payout
 - Subject to Income Taxes
 - Subject to OASDI & Medicare Taxes
 - Reported on Form W-2

Retired Employee Common Issues

- Failure to consider opportunity to protect leave payout from immediate tax withholding through Deferred Compensation deduction
- Entering a Deferred Compensation deduction that creates a net zero paycheck.
- Failure to confirm current Home address
 - Used for Form W-2s

Terminating Employees

Final Check

Leave Payouts

Deferred Compensation

Terminated Employee Final Paycheck

- Tax Reporting
 - Wages and Sick & Vacation Leave Payout
 - Subject to Income Taxes
 - Subject to OASDI & Medicare
 - Reported on Form W-2

Wage Overpayments

- Regardless of the reason for termination of employment...
 - Deceased
 - Terminated
 - Transferred
- Collection of Wage Overpayments must be transferred to the PCG Office upon separation.

Settlement Payments

Income Characterization

Tax Withholdings

Tax Reporting

Settlement Checks

- Contact Payroll Compliance Group
 - Income Characterization
 - Lost or Back Wages
 - Personal Injury
 - Mental Anguish
 - Tax Considerations
 - Tax Reporting



Settlement Checks Common Issues

- We will cover this in depth at the next Payroll Forum
- Send your advance questions to Debbie Cormier

Questions



On the Horizon....

- New Payroll Compliance Officer
- Accounts Payable Examination
- Payroll Repayment Workshop
- Next Forum: July 21, 2015
 - Spoiler Alert:
 - Statewide Benefits Short-Term Disability Presentation

