



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • COMMISSIONER **KC Mohseni**

IN REPLY REFER TO:
FILE NO: _____

September 19, 2025

VIA EMAIL ONLY

Re: _____ - Request for Interpretive Opinion

Dear _____:

You requested an interpretive opinion from the Department of Financial Protection and Innovation ("Department") regarding whether payment services provided by _____ ("_____") is subject to regulation under the Money Transmission Act ("MTA"). Your request was supplemented by additional information which the Department received on June 6, 2025 and June 11, 2025.

I. Background

_____ offers payroll processing to its business customers, including ancillary services that involve money transmission as part of the payment processing for payroll products and related services. _____ services include a Payroll Tax Service, an Employee Payment Service, and a COBRA Administration Premium Payments Service.

Under _____ Payroll Tax Service, _____ collects payroll taxes from its employer clients' bank accounts, deposits funds into _____ account held for the benefit of ("FBO") those clients, and remits payroll tax payments to tax authorities on behalf of those clients. Under the Employee Payment Service, _____ collects payroll amounts from its clients' bank accounts, deposits payments into _____ account held FBO its clients, and then provides physical checks to the client dated as of the scheduled payday.

_____ COBRA Administration Premium Payments Service collects insurance premium payments from qualified beneficiaries and disburses the funds to either _____ clients (employers) or to the client's insurance carriers. Qualified beneficiaries make premium payments using a third-party payment processor. Funds are deposited into _____ account FBO its clients and then remitted to the employers or insurance carriers. _____ has a preexisting written contract with its clients to accept and collect premium payments on their behalf. _____ does not have direct contracts with the applicable insurance carriers. Instead, _____ clients independently contract with insurance carriers.

II. Money Transmission Act

Financial Code section 2030 states, “A person shall not engage in the business of money transmission in this state, or advertise, solicit, or hold itself out as providing money transmission in this state, unless the person is licensed or exempt from licensure under this division or is an agent of a person licensed or exempt from licensure under this division.” Financial Code section 2003, subdivision (r), defines “money transmission” to include receiving money for transmission. Financial Code section 2010 provides certain exemptions from licensure in California.

Financial Code section 2010, subdivision (j), exempts from the MTA:

A person that delivers wages or salaries on behalf of employers to employees or facilitates the payment of payroll taxes to state and federal agencies, makes payments relating to employee benefit plans, makes distribution of other authorized deductions from employees’ wages or salaries, or transmits other funds on behalf of an employer in connection with transactions related to employees.

Financial Code section 2010, subdivision (l), exempts from the MTA transactions in which the recipient of the money is an agent of the payee pursuant to a preexisting written contract and delivery of the money to the agent satisfies the payor’s obligation to the payee.¹ “Agent” is defined as one who represents another, called the principal, in dealings with third persons.² “Payee” means the direct or indirect provider of goods or services, who is owed payment of money from the payor for the goods or services.³ “Payor” means the recipient of the goods or services, who owes payment of money to the payee for the goods or services.⁴

III. Payroll Processing Exemption

Pursuant to Financial Code section 2010, subdivision (j), the payroll processing exemption exempts the transmission of wages, salaries, payroll taxes, and other payments “on behalf of” employers. The payroll processing exemption’s plain language is clear that it exempts payments made “on behalf of” an employer in connection with transactions related to employees. _____ Payroll Tax Service and Employee

¹ For purposes of Financial Code section 2010, subdivision (l), “agent” has the same meaning as in Civil Code section 2295.

² Civ. Code, § 2295.

³ Fin. Code, § 2010, subd. (l)(2); Cal. Code Regs., tit. 10, § 80.128.

⁴ Fin. Code, § 2010, subd. (l)(3).

Payment Service involve payments of wages and payroll taxes made on behalf of employers. Therefore, those services are exempt from the MTA.

_____ COBRA Administration Premium Payments Service involve payments made on behalf of qualified beneficiaries. While these payments are related to employee benefit plans, these payments are not made on behalf of employers. Accordingly, payments under _____ COBRA Administration Premium Payments Service are not exempted by subdivision (j).

IV. Agent of Payee Exemption

Under the COBRA Administration Premium Payments Service, _____ receives funds from qualified beneficiaries and delivers funds to either employers or insurance carriers. _____ has preexisting written contracts with its clients (the employers) to act as their agent in accepting premium payments from qualified beneficiaries. Delivery of the funds to _____ satisfies the qualified beneficiaries' payment obligation to the employer. Accordingly, transactions where payments are received from qualified beneficiaries and transmitted to _____ clients are not subject to the MTA under the agent of payee exemption.

Since _____ does not have direct contracts with the applicable insurance carriers, _____ does not meet the preexisting contract requirement of the agent of payee exemption. Accordingly, transactions where payments are received from qualified beneficiaries and transmitted to insurance carriers are not exempt under the agent of payee exemption.

V. Conclusion

The Payroll Tax and Employee Payment Services are exempt from the MTA under Financial Code section 2010, subdivision (j). The COBRA Administration Premium Payment Service is not exempt under subdivision (j) because it does not transmit funds on behalf of an employer. However, payments made on behalf of qualified beneficiaries are exempt under the agent of payee exemption if _____ has a preexisting written contract with the recipient of the funds and meets the other requirements in subdivision (l).

This opinion is based solely on the facts presented in your correspondence. Any changes in the facts or circumstances, as we understand them, could lead to a different conclusion.

If you have any questions, please feel free to contact me at _____.

Sincerely,

KC Mohseni
Commissioner
Department of Financial Protection and Innovation

By

Counsel