

## Creating compliant employee files

| BY GEORGIA KOLLIAS |

**EMPLOYEE** files are the central repository of all information related to the employee-employer relationship. This puts a great responsibility on employers to protect the information from theft and misuse. An individual's personal information should be maintained with privacy, confidentiality and security in mind. Access to the employee's files must be restricted to a need-to-know basis.

The first task a payroll professional should tackle when starting at a new organization is to audit the personnel files for compliance with privacy laws, Canada Revenue Agency (CRA) and the Ministère du Revenu du Québec (MRQ) regulations and provincial labour standards. In doing this, they are likely to find a number of non-compliance issues, including:

- missing Social Insurance Numbers or valid work permits
- missing birthdates
- incomplete or unsigned forms or documents
- misfiled workers' compensation and disability claims information.

### Missing Social Insurance Numbers

The Social Insurance Number (SIN) is a basic piece of information required by an employer for tax reporting purposes.

An employer that fails to make reasonable efforts to obtain an employee's valid SIN may be subject to fines. Even though

it is not illegal to use the SIN as an employee identifier, it is strongly discouraged.

Essentially, an employer should not use the SIN as an employee identification number for payroll and group benefits purposes. As well, it is not permitted to keep a photocopy of the card on file.

If the SIN begins with a nine, employers must request a copy of a valid work permit from the employee. Individuals may not work past the expiry date indicated on the SIN card since the work permit grants the individual only a temporary right to work in Canada. As a best practice, employers should keep track of the expiration dates and notify the employee to renew the SIN or try to obtain a permanent one within three months of the expiration of the temporary one.

### Incomplete and unsigned forms

Many of the forms employees are required to complete have to do with benefits. In order for an employer to be able to deduct amounts from an employee's paycheque for benefits, such as group insurance, company pension and social club fees, it needs to have the employee's express consent to do so. This consent is given in the form of the employee's signature on enrolment forms.

If the form is unsigned, the deduction may be questioned and found to be unauthorized. Time and productivity would be lost if the payroll department had to refund the employee deductions or had to

retroactively make deductions just because it did not verify a form was signed.

### Undocumented discipline

It is not uncommon for payroll to terminate an employee with a history of performance issues without adequate documentation to support the case.

Too often this is the result of managers or supervisors speaking with the employee about a performance or attitude issue and forgetting to document the discussion or incident. Sometimes, a note is made in the personal files of the manager, but the note fails to make it to the HR department.

This could pose a problem if the manager leaves the company and the documentation could be misplaced. Originals of any document should be kept in the employee's file in the HR department.

### Privacy and confidentiality

Privacy legislation in Canada stipulates an employer needs to limit access to information on file and limit the use of it. Employers should ensure only those individuals with a bona fide reason to see the employee file are allowed to do so and access should be limited to only the information they require.

Limiting access can be as simple as securing the files in a locked cabinet. Files can also be organized in such a way as to restrict access to information.

For example, workers' compensation and disability claims information should be kept in a separate file. Information filed in the employee file can be classified by type, such as new hire documentation, benefits information, pay changes, absences and performance reviews.

If a manager wishes to have information related to an employee's pay history, only the sub-file containing the pay changes would be accessed. This would enhance privacy as the manager would not be able to view other information.

Employers must make sure the files are compliant with a variety of regulations, legislation and common sense.

Small steps taken now can result in savings of time and money in the long run.

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### ■ TIPS FOR PAYROLL PROFESSIONALS

## Federal and provincial privacy legislation

**THE CANADIAN** federal Personal Information Protection and Electronic Documents Act (PIPEDA) and similar provincial legislation establish guidelines for the management of an employee's personal information. According to the Federal Privacy Commissioner, the act "balances an individual's right to the privacy of personal information with the need of organizations to collect, use or disclose personal information for legitimate business purposes." Many times, employers cross into a grey area inadvertently through documentation policies and practices. Creating a checklist and conducting a self-audit may help employers avoid complaints and possible fines for non-compliance. Being proactive can save time and money in the long term.