

tion required by paragraph (3) with respect to any calendar quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

(6) Audit date

For purposes of paragraph (3)(A), the audit date shall be six months after the completion of the organization’s fiscal year.

(d) Suspension and revocation authority

The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 3511 if the Secretary determines that such person is not satisfying the agreements or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

(e) Work site employee

For purposes of this title—

(1) In general

The term “work site employee” means, with respect to a certified professional employer organization, an individual who—

- (A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and
- (B) performs services at a work site meeting the requirements of paragraph (3).

(2) Service contract requirements

A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

- (A) assume responsibility for payment of wages to such individual, without regard to the receipt or adequacy of payment from the customer for such services,
- (B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to such individual’s wages, without regard to the receipt or adequacy of payment from the customer for such services,
- (C) assume responsibility for any employee benefits which the service contract may require the certified professional employer organization to provide, without regard to the receipt or adequacy of payment from the customer for such benefits,
- (D) assume responsibility for recruiting, hiring, and firing workers in addition to the customer’s responsibility for recruiting, hiring, and firing workers,
- (E) maintain employee records relating to such individual, and
- (F) agree to be treated as a certified professional employer organization for purposes of section 3511 with respect to such individual.

(3) Work site coverage requirement

The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for

the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2) (but not taking into account those individuals who are excluded employees within the meaning of section 414(q)(5)).

(f) Public disclosure

The Secretary shall make available to the public the name and address of—

- (1) each person certified as a professional employer organization under subsection (a), and
- (2) each person whose certification as a professional employer organization is suspended or revoked under subsection (d).

(g) Determination of employment status

Except to the extent necessary for purposes of section 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

(h) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 113–295, div. B, title II, §206(b), Dec. 19, 2014, 128 Stat. 4067.)

EFFECTIVE DATE

Section applicable with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after Dec. 19, 2014, see section 206(g)(1) of Pub. L. 113–295, set out as an Effective Date of 2014 Amendment note under section 3302 of this title.

CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION CERTIFICATION PROGRAM

Pub. L. 113–295, div. B, title II, §206(g)(2), Dec. 19, 2014, 128 Stat. 4071, provided that: “The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986, as added by subsection (b), not later than 6 months before the effective date determined under paragraph (1) [see section 206(g)(1) of Pub. L. 113–295, set out as an Effective Date of 2014 Amendment note under section 3302 of this title].”

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¹ Section numbers editorially supplied.