Plymouth Institute for Free Enterprise

Codify the PAID Program

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TOPLINE: The PAID program for unintentional paycheck errors would increase the amount and speed of payments returned to workers, while saving legal costs.

BACKGROUND: The Fair Labor Standards Act (FLSA) governs the minimum wage, overtime, and employee classifications that affect tax withholding. Employers sometimes make payroll mistakes related to the FLSA. For example, an employer may not realize that they are required to compensate employees for off-hours work, such as answering an email after hours, or for attending employee training. Or an employer may mistakenly fail to provide overtime pay, for example, if one of their employees holds multiple job classifications that total over 40 hours. Or they may not realize that they have to include the value of compensation like childcare benefits when calculating an employee's rate of pay for overtime purposes. There are also plenty of instances of intentional "wage theft," whereby employers knowingly withhold payments from workers.

The traditional means of enforcement for payment errors—intentional or not—is primarily reactive: an employee must complain or the Department of Labor (DOL) must select the employer for investigation. To encourage the discovery and timely reimbursement of lost wages for workers without costly litigation, the Trump-Pence administration created the voluntary Payroll Audit Independent Determination (PAID) Program, whereby employers could perform their own audits, promptly correct their errors by returning 100% of backpay owed, and subsequently eliminate the risk of future lawsuits for corrected errors. As with similar voluntary compliance programs at DOL, such as the Voluntary Protection Program and the Voluntary Fiduciary Correction Program, the PAID program was highly successful. DOL reported that **PAID cases took about half the time of other compliance actions while yielding more than ten times as much in back wages per enforcement hour.** The PAID program also increased DOL's resources to focus on more egregious and intentional violations. The Biden administration ended the PAID program in January 2021.

Action Item (Congress):

- **Codify the voluntary PAID program in law**.

How It Would Make Life More Affordable:

- It would more promptly return a higher portion of workers' wrongly withheld wages, reduce unnecessary litigation costs, and improve compliance.

Related Legislation: Ensuring Workers Get PAID Act of 2025 (H.R. 2299, S. 2267).

BOTTOMLINE: The voluntary PAID program harms no one, saves costs, and increases timely returns of workers' lost wages.