

NLRB Invites Briefing On Changes To Increase Tax Exposure For Employers Required To Make Back Pay Awards

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The NLRB has invited briefs from interested parties with respect to two tax issues related to back pay awards. The invitations were contained in a July 31, 2012 decision [Latino Express, 358 NLRB No. 94 \(2012\)](#). The two issues involve whether the Board should routinely require a respondent to submit documentation to the Social Security Administration so that back pay is allocated to the appropriate calendar quarters, and pay for any excess federal and state income taxes owed as a result of the discriminatee receiving a lump-sum payment. Depending upon the amount of the back pay award, each of the changes could end up imposing greater costs on NLRB respondents ordered to make back pay awards.

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