

The most current information on how Payroll professionals can avoid legal and procedural pitfalls, in a fast-read format, twice a month.

KEEP UP TO DATE **on** PAYROLL™

May 17, 2021

IRS FORMS & REGS ALERT

The IRS is taking another look at many of the documents you use regularly, including tax forms. We'll keep you posted on any changes, such as new ways to report.

■ EMPLOYER-PROVIDED HEALTHCARE REPORTING

Item: Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, and Form 4423, *Application for Filing Affordable Care Act (ACA) Information Returns*.

Background: These forms are used by employers that are subject to the information reporting requirements of the ACA.

Comments due: 6/21/21.

Cite: *Federal Register*, 4/20/21.

■ WAIVER OF 60-DAY ROLLOVER REQUIREMENT

Reg: Rev. Proc. 2020-46.

Background: This is related to the waiver of the 60-day rollover requirement for IRAs and the self-certification of eligibility.

Comments due: 6/21/21.

Cite: *Federal Register*, 4/20/21.

Go to www.gpo.gov/fdsys for copies of the forms.

EEO-1 reports due: Crucial info about filing process for Payroll

■ New credentials needed due to system updates

It's time to start submitting your EEO-1 Component 1 reports. Since you'll have to file two years' worth of data this year, it's key to get the ball rolling ASAP.

To make sure you're on track to meet the July 19, 2021, deadline, here's what you'll need to know.

Registering & submitting

Data collection opened for the EEO-1 report on April 26, 2021.

Companies that have filed before should have already received letters with their Company ID and passcode. This info should be used to create a new account on the EEO-1 homepage (found at eeocdata.org/eeo1) by clicking on "Get Started."

Note: Credentials you've used to submit reports in the past won't work anymore because the system's been updated recently.

Letters were mailed to the most recent contact person on file for the EEO-1 report. If you updated your point of contact recently, it's possible the request wasn't processed before notices were sent out, so the letter may have been addressed to the former contact person.

If you haven't received a letter yet, email the EEO-1 Component 1 Filer Support Team at FilerSupport@eeocdata.org for assistance.

Any employers that have never

(Please see EEO-1 ... on Page 2)

Third parties & recordkeeping: Avoid costly mistakes

Careful and accurate recordkeeping can prevent big hassles for Payroll pros, especially when working with third-party vendors. An employer involved in a recent federal court case could've used that lesson beforehand.

The employer contracted with an outside company to handle its pension benefits – and the company made a big error that landed both parties in court.

Statements were wrong

Employees enrolled in the plan received inaccurate benefit statements. They were under the impression they'd be getting higher payments than they were entitled to when they retired.

So the employees sued, saying their employer and the third-party company violated federal laws requiring them to provide complete and correct pension statements. The employees also accused the third-party company of negligence. The employer beat the charges after a long legal battle that made it to a federal appeals court, but the charges against the third party stood.

This case shows why it's important to double-check that your pay records and the pay statements workers receive are accurate – and to be extra diligent if there's a third-party vendor involved in your Payroll process.

Cite: bit.ly/statements622

Switching payroll cycles? Here's how to make sure you're in compliance

RECENT LAWSUIT SHOWS EMPLOYERS RIGHT WAY TO MAKE THE CHANGE

It's sometimes necessary to change your pay cycle. In this situation, it's key to proceed with caution.

Along with any compliance and legal issues that may arise due to state prompt-payment laws, you'll have to address workers' concerns about their checks.

One company's pay change was challenged in court, but it followed procedure to the letter and won.

The employees in *Wilkinson v. West Virginia (WV) State Office of Governor* said that, after their employer changed from a semimonthly pay cycle to a biweekly pay period, they weren't paid their full salaries for the year.

However, this wasn't the case. Upon analysis of payroll records, the court found the workers were paid for work done in the previous pay cycle on each

payday, so they were paid their full year's salary by the first payday that fell in the next calendar year.

This was perfectly legal under state law, so the case was dismissed – even after multiple appeals.

Following the regs

Under the Fair Labor Standards Act, pay cycles can be changed as long as the change: 1) is permanent, 2) is for legit business reasons, 3) isn't made to avoid paying overtime and 4) doesn't unreasonably delay workers' pay. State laws may be stricter.

Be sure to consider these factors – and prepare for employees' questions – for a smooth transition.

Cite: *Wilkinson v. WV State Office of Governor*, No. 20-0295, Supreme Court of Appeals of WV, 4/20/21.

EEO-1 ...

(continued from Page 1)

submitted EEO-1 reports before must first visit the website to register their company, then create a new user account to begin the filing process.

Companies will first have to file their EEO-1 Component 1 report with workforce data (including ethnicity and gender info) for 2019. Once that report is certified and submitted, then you'll be able to submit data for 2020.

Right now, the only submission option available for companies is to enter their data directly into the EEO-1 report's secure web portal. The recent updates to the system were designed to streamline this portal by adding more user-friendly features.

Other than any usability changes, the submission process should be similar to how it's been in the past.

By May 26, 2021, the system will be updated to accept data file uploads. Additional info about the requirements and specifications for your files will be available online soon.

More info: bit.ly/leo1report622

SHARPEN YOUR JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

FIRED AFTER INJURY: WAS WORKER ENTITLED TO LEAVE?

Payroll Manager Pat Gray was enjoying a late afternoon spring stroll when she noticed Mandy, one of her neighbors.

"Hi there, Mandy," Pat called out to her. "I take it your knee's feeling better now?"

"Hi Pat," Mandy replied. "It's getting there. The doctor wants me to get a bit of exercise, so here I am."

"Are you back at work yet?" Pat asked.

"So, I tried to return to work a little while ago, and they ended up firing me," Mandy said.

"Oh no," Pat replied. "Why?"

Only offered workers' comp

"Things were fine when I first came back after the injury," Mandy began. "I was on desk duty for a bit, and then my doctor cleared me for my normal work.

"But work decided to give me a physical fitness test first. I did all the exercises just fine, but my knee started hurting at the end. So they told me I couldn't do my job anymore, and they fired me."

"That's terrible," Pat said. "Maybe taking a bit of FMLA leave before returning would've helped?"

"Here's the thing: No one offered me any FMLA leave," Mandy said. "Since I got injured on the job, it was all handled under workers' comp, and my boss said that's all they needed to do for me."

The employee later sued her former employer for FMLA interference. Did she win?

Make your decision, then please turn to Page 6 for the court's ruling.

From:  **KEEP UP TO DATE ON PAYROLL™**

EDITOR: JENNIFER WEISS
jweiss@HRMorning.com

EDITOR: JESS WHITE
MANAGING EDITOR: CURT BROWN
PRODUCTION EDITOR: JEN ERB
EDITORIAL DIRECTOR: CURT BROWN

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IRS extends COVID tax penalty relief for employers: Here's who's eligible

■ REDUCE DEPOSITS OWED FOR PAYROLL TAXES BASED ON CREDITS

Good news! The IRS is now allowing eligible employers to immediately take advantage of several COVID payroll tax credits. The agency discusses the details in Notice 2021-24.

Per the notice, employers can reduce the amount of employment taxes owed by the amount of qualified wages paid that would be eligible for each credit. And they won't face any penalties for late tax deposits.

This relief applies to employers that can claim the following tax credits:

- Paid sick and family leave credits under the Families First Coronavirus Response Act for qualified leave wages employers paid between Jan. 1, 2021, and March 31, 2021
- Paid sick and family leave credits added under Sec. 9641 of the American Rescue Plan Act (ARPA) for qualified leave wages paid from April 1, 2021, to Sept. 30, 2021
- The employee retention credit under the Coronavirus Aid, Relief, and Economic Security (CARES) Act for qualified wages paid from Jan. 1, 2021, to June 30, 2021

- The employee retention credit added under Sec. 9651 of the ARPA for qualified wages paid from July 1, 2021, to Dec. 31, 2021, and
- The tax credit for offering COBRA continuation coverage premium assistance added under Sec. 9501(b) of the ARPA from April 1, 2021, to Sept. 30, 2021.

Any reductions that an employer makes to a quarterly tax deposit must be less than or equal to the amount of the anticipated credits.

Keep in mind: Employers that complete Form 7200 to request advance payments of any COVID tax credits to reduce their deposits can't also take advantage of this relief.

Additional help for businesses

Along with penalty relief for reducing tax deposits in anticipation of these credits, Notice 2021-24 offers tax relief for businesses that had to close due to government mandates related to the coronavirus.

Employers that lost substantial revenue due to COVID, as defined under the CARES Act, are eligible for tax relief as well.

More info: irs.gov/pub/irs-drop/n-21-24.pdf

On-demand pay: 7 steps to ensuring compliance

Offering employees an earned wage access program doesn't mean you're providing them with credit, according to the Consumer Financial Protection Bureau.

But there are seven requirements providers must meet, warns Matthew Kopko, vice president, public policy, DailyPay. He spoke during a session at the American Payroll Association's 2021 Capital Summit.

Check your framework

For an on-demand pay program, here's the necessary framework for

avoiding the credit classification under the Truth in Lending Act (also known as Regulation Z):

1. Have a contract.
2. Limit the amount to earned pay with data.
3. Low or no fees are charged for the employee to access the funds.
4. Settlement is via payroll.
5. There's no recourse against the employee.
6. Key disclosures are made.
7. There's no individual underwriting.

More info: bit.ly/earnedwage622

NEWS YOU CAN USE

■ EMPLOYEE RETENTION CREDIT: WHAT'S CHANGED?

In Notice 2021-23, the IRS explained the changes to the employee retention credit for the first and second quarters of 2021.

For example, the IRS discusses the revisions to the definition of qualified wages as well as the restrictions on the ability of eligible employers to request an advance payment of the credit.

More info: irs.gov/pub/irs-drop/n-21-23.pdf

■ LIMIT PER TRANSACTION GOING UP, SAYS NACHA

Soon, businesses will be able to make Same Day ACH payments of higher dollar amounts.

The per-payment maximum is going up to \$1 million (currently, it's \$100,000). That's for credits and debits. You have time to prep: The new limit will kick in March 18, 2022, according to Nacha.

More info: nacha.org/news/same-day-ach-payment-limit-increase-1-million

■ DOL RELEASES NOTICES ON COBRA PREMIUM ASSISTANCE

The Dept. of Labor (DOL) just released several notices you may need to give employees under the American Rescue Plan Act (ARPA).

The ARPA created a COBRA premium assistance that allows certain individuals to continue their health benefits. The premium assistance is available from April 1, 2021, through Sept. 30, 2021.

Here are two notices employers may be required to provide:

- *Model ARP General Notice and COBRA Continuation Coverage Election Notice*, and
- *Notice of Expiration of Period of Premium Assistance*.

More info: dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra-premium-subsidy

TEST YOUR KNOWLEDGE

■ Dependent care FSAs: Latest changes impacting employers

The American Rescue Plan Act (ARPA) changed the contribution limits for employees participating in their employers' dependent care flexible spending accounts (FSAs).

Are you aware of the updates implemented by the ARPA and other laws? Test yourself by answering *True* or *False* to the following:

1. For 2021, the ARPA changed the maximum contribution limit for a dependent care FSA to \$10,000.
2. Employers with dependent care FSAs can either offer participants a 12-month grace period to use leftover funds or allow them to carry over any remaining funds to the next plan year.
3. The total amount of dependent care benefits provided to each employee should be reported in Box 10 of Form W-2.
4. Mid-year election changes can't be made to dependent care FSAs.

ANSWERS

- Answers to the quiz:**
1. *False.* The maximum contribution limit for a dependent care FSA is \$10,500 for 2021, or \$5,250 for married people who are filing individually.
 2. *True.* These changes were implemented for FSAs in 2020 and 2021 by the Consolidated Appropriations Act (CAA), 2021.
 3. *True.* And if dependent care benefits are provided that exceed the limit for the plan year, they must be reported as taxable income in boxes 1, 3 and 5 of Form W-2.
 4. *False.* Employees are allowed to make mid-year election changes to dependent care FSAs for any reason, according to the CAA. However, the plan must first be amended to allow workers to make these changes.
- More info: bit.ly/dependent622*

COMPLIANCE CHECK

See where other companies went wrong – and avoid their mistakes

This feature highlights violations of federal and state laws. You can find out how other employers got off track – and help keep your company in compliance.

Cleaning employer pays over \$102K for H-2B issues

Employer: Universal Cleaners LLC, Traverse City, MI.

Business: Commercial cleaning.

Law broken: Labor provisions of the H-2B visa program.

Type of violation: The company committed multiple violations: failing to advertise to U.S. workers that the job came with housing, paying foreign workers less than the prevailing wage for janitorial work, having one foreign worker perform a job the person wasn't hired to do and failing to reimburse foreign workers for their travel expenses.

Penalty: Ten workers were paid \$56,734 in back wages, and the employer paid an additional \$51,309 in civil penalties.

Government office: Dept. of Labor, Wage and Hour Division, Grand Rapids, MI, office.

Restaurant didn't pay OT, minimum wage properly

Employer: Rio Bravo Mexican Restaurant Gulf Breeze Inc., Gulf Breeze, FL.

Business: Restaurant.

Law broken: Minimum wage, overtime and recordkeeping provisions of the Fair Labor Standards Act.

Type of violation: Instead of paying servers when their shifts began, the restaurant didn't pay them until their customers arrived. Employees also were paid semimonthly and didn't receive overtime pay on a weekly basis. And the employer didn't keep accurate records of

the hours employees worked.

Penalty: The restaurant paid \$19,008 in back wages to 24 employees.

Government office: Dept. of Labor, Wage and Hour Division, Orlando, FL, office.

Recorded workers' OT hours on separate payroll

Employer: Prince Charles Home Health Care Agency LLC, Danville, VA.

Business: Home health care.

Law broken: Overtime provisions of the Fair Labor Standards Act.

Type of violation: Workers weren't paid overtime when they worked more than 40 hours a workweek. Instead, the employer recorded these hours on a separate payroll and paid them at straight-time rates.

Penalty: Fifty-eight employees received \$139,974 in back wages. The employer also had to pay a \$30,319 civil penalty.

Government office: Dept. of Labor, Wage and Hour Division, Richmond, VA, office.

Feds uncovered employer's 'reimbursement' facade

Employer: Facades Inc., Manchester, NH.

Business: Commercial exterior surfaces applicator-installer.

Law broken: Overtime provisions of the Fair Labor Standards Act.

Type of violation: The employer paid workers overtime hours at straight-time rates, labeling payments as "reimbursements."

Penalty: Facades Inc. paid \$87,360 in back wages to 28 employees, and it also had to pay a \$19,516 civil penalty.

Government office: Dept. of Labor, Wage and Hour Division, Manchester, NH, office.

Our readers come from a broad range of companies and organizations, both large and small. In this regular feature, three of them share success stories you may be able to adapt to your unique situation.

1 Streamlined process of sending our workers their paystubs

Sending out paper paystubs was a time-consuming process for us.

We had hundreds of employees in multiple offices and states. So for every pay cycle, we had to make sure paystubs were printed, put in envelopes and ready to send out to each office through FedEx.

Then, the offices had to distribute the stubs to employees across the country before the end of the week.

Not only did this take several

hours, it also added more stress to the payroll process since we were on a tight deadline, so we knew things needed to change.

Simple setup saved hours

We figured out a cost-effective way to make our paystubs electronic.

Using a program that integrates directly with our payroll software, we turned our paystubs into files that we can schedule to be emailed directly to

our employees across the country.

The program was simple to set up and get going, and it allowed us to save a great deal of money on printing and mailing costs. It also saved me hours of time each week.

As an added bonus, we don't have to worry about employees coming to us for reprints of paystubs – we just tell them to check their email instead.

(Sally Conkle, payroll manager, Brycon Corp., Rio Rancho, NM)

2 Gave Finance staff more autonomy, ownership

As a manager, it can be hard to let go of control – but it's essential if you want your team to be successful.

That's why we let our Finance staff take ownership and make decisions. We always say, "You have to be able to make the \$100 decision before you can make the \$1 million decision."

'Go do it!'

So, when staffers bring me or other high-level leaders ideas or items, we listen closely. And especially if it's a low-risk item, we usually let them do

it. If there's a problem and they have a solution, we tend to say, "Go do it!"

This gives staffers a sense of confidence and autonomy. They often respond, "Seriously? I can do this?" And while it can be scary to release restraints and share responsibilities, it helps build trust.

For example, I had a staffer tell me I needed to call a vendor because they wanted to talk to a manager. I said, "No, you make the call. We're not playing the title game. They need something from you and you're

capable of handling it." This increased the staffer's confidence and ownership of their role in Finance.

And the more confident and invested staffers are in their roles, the more successful we can be overall.

(Denny Seiber, director of corporate A/P, Expedia Inc., as presented at the A/P P2P Conference & Expo, Las Vegas)

**REAL
PROBLEMS
REAL
SOLUTIONS**

3 Considering remote work & employee needs beyond COVID-19

Staffing was the biggest challenge of the coronavirus pandemic.

Everybody's had to work from home at some point, and it caused some employees, especially the ones with children, to request a reduction in hours because they were struggling with work-life balance. Others kept working full time, but had to stagger their hours to get their work done.

Some people are less effective working from home and preferred to be in the office.

With all these different needs, we had to have a system of tracking where people were working and when.

Schedule spreadsheets

We created collaborative weekly cloud spreadsheets so everybody knows who's in the office, who's working remotely and who may need someone to cover for them.

Also, our office phone system allows people to make important availability messages visible to all,

such as, "I'm out till 3:30."

Although some collaboration gets lost when we don't have everybody on site, scheduling flexibility is going to be crucial even if all our people get vaccinated against COVID-19.

As a result, whenever things start looking more normal, we'll probably allow our people to work from home at least one day a week.

(Julie Bennett, vice president of finance, First West Insurance, Bozeman, MT)

IRS e-filing and more: New report highlights updates you might see

■ LATEST SUGGESTIONS TO IMPROVE SEVERAL FEDERAL TAX PROCESSES

The annual Purple Book from the National Taxpayer Advocate is here, and this year's version contains several recommendations for the IRS to make changes that'll affect Payroll.

Many of the suggested updates deal with e-filing returns, making tax payments online and penalties.

Here are some of the report's key recommendations you may see the IRS implement soon.

Consistency needed

Right now, those who submit tax returns and payments online are subject to stricter deadlines than those who file and pay through the mail.

While federal law allows the IRS to count payments and returns as timely if they're postmarked before the deadline, there's no similar provision for online submissions.

In fact, any payments submitted online via the agency's Electronic Federal Tax Payment System (EFTPS) must be scheduled by 8 p.m. EST

the day before the payment's due to be considered timely.

Meanwhile, as long as a mailed payment is postmarked on the due date, it's considered timely – even though the EFTPS payment would be processed more quickly than a mailed check.

To prevent this disparity, the report suggests the IRS should apply the same rules and deadlines to electronic documents and payments as it does to those that are mailed.

This would give more leeway to employers when submitting returns and payments online – and make it easier to avoid penalties for late payments and filing.

The Purple Book also recommends that the IRS start sending taxpayers notices about delinquent payments more frequently.

Current law only requires the IRS to send one notice about missed payments a year. But that can cause a payment to fall through the cracks – especially if it's missed accidentally.

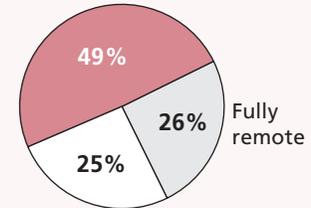
The best way to prevent this, the report said, is for the agency to start

WHAT PAYROLL PROS TOLD US

Working in the office v. working remotely

How would you prefer to work after the coronavirus pandemic ends?

Hybrid of remote and in office



Fully in office

Source: Robert Half survey of more than 1,000 U.S. workers

One of the top items on returning workers' "wish lists" is for their employer to cover their daily commuting expenses, which would create more work for Payroll.

Each issue of KUDP contains an exclusive survey to give Payroll pros insight into what their peers nationwide are thinking and doing.

sending notices about unpaid taxes at least on a quarterly basis.

Another significant change: The IRS has been asked to provide clarity on the revenue code provision that a supervisor at the agency must approve any penalties assessed against a taxpayer in writing before they're issued.

More info: bit.ly/purplebook622

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes, the ex-employee won her case. Although a district court initially ruled in favor of her employer, she appealed. The appeals court reversed the decision and ordered a trial.

The employer's primary defense was that it handled the worker's injury as a workers' compensation claim, so she received pay for any days missed and her medical care. That meant it didn't have to provide the worker with any additional benefits, including leave under the Family and Medical Leave Act (FMLA).

While the district court agreed with that argument, the appeals court said that complying with state workers' comp laws didn't remove the employer's obligation to also comply with the FMLA.

Here, the employer knew the former worker was seriously injured. Yet, it didn't inform her of her rights under the FMLA or offer her any leave. That was in clear violation of the law.

As the appeals court said, "Providing workers' compensation benefits cannot absolve an employer of all obligations under the FMLA."

Now, a jury will decide if the employer interfered with the former employee's right to take unpaid leave to fully recover from her injury.

Analysis: When multiple laws apply

While FMLA leave itself can be pretty straightforward, compliance can get tricky when state laws come into play, such as workers' comp or paid leave laws.

Employers often have to follow multiple laws at once, so it's important that nothing is missed when these situations arise. Be sure workers are aware of the types of leave and benefits they're entitled to under the relevant laws, the duration of the leave and whether it'll be paid or unpaid.

Cite: *Ramji v. Hospital Housekeeping Systems Inc.*, No. 19-13461, CA11, 4/6/21.

Note: Dramatized for effect.

Industry news you can use

■ New VA paid sick leave law coming for home health workers

Home health workers in Virginia will be entitled to paid leave as of July 1, 2021, thanks to HB 2137.

Employees who work an average of 20 hours a week or 90 hours a month must receive one hour of paid sick leave for every 30 hours they work. This leave will be capped at 40 hours a year, but employers can offer more paid sick leave at their discretion. Leave can be provided to workers all at once at the beginning of the year.

Also, employers must allow their workers to take paid sick leave at the employees' request. If notice is required, the terms must be in writing.

More info: bit.ly/vasick622

■ Another city in CA mandates 'hero pay' for retail employees

Certain retail establishments in Pomona, CA, including grocery stores, pharmacies and "big box" retailers, must provide "hero pay" to their essential workers during

the coronavirus pandemic. Effective March 1, 2021, a city ordinance requires retailers with at least 300 employees in the U.S. and more than 10 workers per location in Pomona to pay an additional \$4 per hour to workers.

The premium pay ordinance is in effect until June 29, 2021, though it may be extended.

More info: bit.ly/pomonahero622

■ IRS' latest tax guidance for employers using gig workers

The IRS is reminding businesses and digital platforms operating in the gig economy of their tax obligations.

Workers must be classified correctly as either employees or independent contractors, and their income must be reported appropriately on Form W-2 or Form 1099-MISC.

The agency's Gig Economy Tax Center has detailed tax info businesses can pass along to workers as well.

More info: irs.gov/businesses/gig-economy-tax-center

Answers to readers' most pressing Payroll questions

Whether you're a longtime Payroll person or new to the profession, no doubt you occasionally face situations that leave you scratching your head. Here, we answer common dilemmas:

How do I ensure people can see & hear me in video meetings?

Q: Our company's still encouraging us to use video chat instead of having in-person meetings. I've been told by other participants that it's hard to see and hear me at times. How can I improve my video and sound quality?

A: First things first, have IT look over your computer to make sure nothing's amiss with your webcam or sound settings. If all that is fine, there are a few things you can try. The right lighting

can make a big difference with your visibility. Try to keep a light source on your face and avoid sitting directly in front of a window on camera. Your webcam's lens should be at or above eye level – you may need to prop up your computer or monitor with books or boxes. To improve your sound, try an external mic or a headset instead of using your computer's built-in microphone. Another idea: Log into meetings with your smartphone instead of using your computer. Modern phones often have better sound and camera features than webcams.

More info: bit.ly/soundvid622

Send questions to jweiss@HRMorning.com. Because of the volume of mail we receive, we regret we can't answer all submissions.

WHERE TO GET HELP

RECENT CHANGES TO FEDERAL FORMS AND PUBLICATIONS

This list of forms and instructions contains Payroll-related updates.

- Form 5884-A, *Employee Retention Credit for Employers Affected by Qualified Disasters*. Revised March 2021. Posted 4/1/21 by IRS.
- Instructions for Form 5884-A, *Employee Retention Credit for Employers Affected by Qualified Disasters*. Revised March 2021. Posted 4/1/21 by IRS.
- Instructions for Form 941 (PR), *Employer's Quarterly Federal Tax Return (Puerto Rico Version)*. Revised March 2021. Posted 4/5/21 by IRS.
- Publication 525, *Taxable and Nontaxable Income*. Revised for 2020. Posted 4/8/21 by IRS.
- Publication 505, *Tax Withholding and Estimated Tax*. Revised for 2021. Posted 4/12/21 by IRS.
- Form 5884-D, *Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters*. Revised April 2021. Posted 4/22/21 by IRS.
- Instructions for Form 5884-D, *Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters*. Revised April 2021. Posted 4/22/21 by IRS.

More info: Find links by going to keepuptodateonpayroll.com/forms-and-publications-622

The Purpose of *Keep Up to Date on Payroll*

Keep Up to Date on Payroll helps Payroll practitioners stay current with all the changing laws and regs.

The quick-read, easy-to-understand format gets right to the point, so you don't have to waste any time.

Keep Up to Date on Payroll provides timely information about new laws and regs, and gives you a heads up about coming changes – so you have plenty of time to prepare.

State law and reg changes Payroll needs to know

Don't see your state here? You can find additional state and local items online – it's included with your subscription. Check out our interactive map, too. Log on today!

ALASKA

- **OVERTIME:** A state supreme court decision gives employers more leeway when defending themselves in wage and hour suits. In *Buntin v. Schlumberger Technology Corp.*, the court said while the burden of proving whether an employee qualified as exempt from overtime was still on the employer, proof must be based on the “preponderance of evidence” instead of beyond a reasonable doubt, loosening the standard. Certain exemptions should also be interpreted fairly rather than strictly under state wage law – as long as those exemptions are interpreted the same way under the Fair Labor Standards Act. **More info:** bit.ly/akexempt622

ARKANSAS

- **TAXABLE WAGE BASE:** Heads up: HB 1409 caps the state’s maximum unemployment insurance taxable wage base at the current figure of \$10,000 for the rate year beginning Jan. 1, 2022, through Dec. 31, 2022. **More info:** bit.ly/arwagebase622

CONNECTICUT

- **TAXES:** As part of the revised state budget bill, HB 6443, a new optional tax on workers’ wages has been introduced. Both employees and independent contractors who are eligible can opt to have their employer pay a tax equal to 5% of their pay. They’ll get a refundable credit for their state income tax if they do so. The budget should be finalized in June 2021. We’ll keep you posted about whether this proposed tax moves forward.

More info: bit.ly/ctbudget622

KENTUCKY

- **PAID LEAVE:** Employers will be required to provide the same leave benefits to adoptive parents that they do to birth parents, thanks to HB 210. If an employee makes a written request for leave related to the adoption of a child under age 10, employers should allow the person to take “reasonable” personal leave (up to six weeks – or more if birth parents are allowed additional weeks of leave). Any other benefits birth parents would receive must also be granted to adoptive parents. Adoptions by relatives or foster parents are exempt. The bill is scheduled to go into effect in the summer of 2021. **More info:** bit.ly/kyadopt622

MAINE

- **TAX CONFORMITY:** Public Law 2021, chapter 1, updates Maine’s tax law conformity to the Internal Revenue Code as of Dec. 31, 2020. This includes provisions about loan forgiveness and business expenses under the Paycheck Protection Program. **More info:** bit.ly/meconform622

MICHIGAN

- **TAX CONFORMITY:** The state department of treasury now conforms to federal law when it comes to loans obtained under the Paycheck Protection Program (PPP). That means PPP loan forgiveness and any deductible business expenses funded by the loan are applicable to employers’ state taxes as well. Recordkeeping requirements are also the same. **More info:** bit.ly/miconformity622

NEW MEXICO

- **PAID SICK LEAVE:** HB 20, the Healthy Workplaces Act, will require employers to give workers at least of one hour of earned sick

leave for every 30 hours worked, effective July 1, 2022. They’ll be able to use up to 64 of these hours each year for various reasons, including caring for themselves, caring for family members and attending meetings at children’s schools related to health/disability. The leave can also be used to deal with abuse, stalking and assault. **More info:** bit.ly/nmleave622

SOUTH CAROLINA

- **NEXUS:** Information Letter No. 21-8 extends tax relief for employers with employees who are teleworking due to COVID-19 until Sept. 30, 2021. During the relief period, employers’ withholding requirements for employees remain the same as when employees were working on site, regardless of employees’ current telecommuting location. **More info:** bit.ly/scnexus622

THE LIGHTER SIDE

Better keep brushing up on those state wage laws! Yet another state is offering teleworkers the chance to relocate to its borders for cash.

This time, it’s West Virginia – home of those famous country roads.

As part of its Ascend WV program, the state is offering workers \$12,000 if they move to the state and stay for at least two years.

Along with the cash, new residents get other perks, including annual passes for various outdoor activities like mountain climbing, rafting and golf. They’ll also have access to co-working spaces and continuing education classes from West Virginia University.

Withholding the right taxes for your remote workers may start getting complicated if more states jump on this bandwagon!

Cite: bit.ly/ascendwv622