

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

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August 2, 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.

■ SMALL EMPLOYERS AND EMPLOYMENT TAXES

Item: Forms 944 and 944 (SP) *Employer's Annual Employment Tax Return*; Forms 944-X and 944-X (SP), *Adjusted Employer's Annual Federal Tax Return or Claim for Refund*.

Background: The IRS collects Form 944 from small employers to make sure they're paying employment taxes correctly.

Comments due: 9/7/21.

Cite: *Federal Register*, 7/8/21.

■ EMPLOYEE RETENTION CREDIT AFTER DISASTERS

Item: Form 5884-D, *Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters*.

Background: This form is used to claim the 2020 qualified disaster employee retention credit against certain payroll taxes.

Comments due: 9/7/21.

Cite: *Federal Register*, 7/8/21.

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

IRS' latest revision of Form 941: What's changed for Payroll

■ New worksheets & lines for pandemic tax credits

There's a new version of Form 941 for the second quarter of 2021 with some significant changes you'll need to know about.

The most recent version of the form was revised in June 2021. Most of the updates are to allow employers to claim new COVID-19 tax credits established by the American Rescue Plan Act (ARPA).

Here's a rundown of the changes.

Important updates

For starters, this quarter's 941 has several more worksheets included with it than usual. There are five different worksheets for employers to calculate all the tax credits available. Worksheets 1 and 3 are used for

COVID-19 qualified paid family and sick leave wages. Worksheets 2 and 4 are used for the employee retention credit. Employers use Worksheet 5 for the credit for COBRA premium assistance payments.

There are also several new lines on Form 941 to account for all these credits. Qualified family and sick leave wages paid after March 31, 2021, should be reported on line 5a. The credit for leave taken after this date is reported on line 11d for the nonrefundable portion. If there's a refundable portion, it's reported on line 13e.

You'll still use line 11c to report the nonrefundable portion of

(Please see Form 941 ... on Page 2)

IRS clashes with court on who counts as employer

The IRS says it disagrees with an appeals court's decision in a case about who's considered an employer for purposes of claiming a tip credit.

Here's what that means to you.

Establishing tax liability

In *TriNet Group v. United States*, the Eleventh Circuit decided that a professional employer organization (PEO) was eligible to claim the FICA tip credit instead of its clients.

Reason: The PEO had "control over the payment of wages" to clients' employees. In the court's eyes, that qualified the PEO as the employer,

which meant it was liable for withholding and paying federal taxes on workers' wages. Therefore, it was also eligible to claim the tip credit.

The IRS responded with an Action on Decision (AOD) stating that it didn't acquiesce to the court's ruling. Per the AOD, this means the agency won't follow the court's decision when it makes its own rulings in similar cases.

In light of the outcome of this case, employers that work with PEOs will want to review how the relationship impacts their tax liability.

More info: irs.gov/pub/irs-irbs/irb21-24.pdf

Multiple wage deductions: How to stay in compliance with state laws

■ EMPLOYER DIDN'T HAVE EVIDENCE IT MADE AGREEMENT WITH WORKER

You might regularly make multiple deductions from workers' wages for various reasons that aren't related to taxes or garnishments, including to repay cash advances or reimburse costs.

Be aware: You may need to get employees to agree to each type of deduction separately in writing.

One employer's currently facing a heated legal battle with an employee over whether deductions it made from his pay were properly authorized.

The employee in *Albelo v. Epic Landscape Productions L.C.* claimed that although he did authorize his employer to make pay deductions to repay a loan he requested, he didn't specifically authorize other deductions the employer made to cover his housing and rent-related expenses.

While the employer argued that the

employee had in fact agreed to all the deductions it made, it had no proof he signed off on deductions for any of the housing expenses.

Because state law only allowed pay deductions if there was written authorization from the employee, the court said the worker may have a case.

Best bet for Payroll

Blanket authorizations for multiple employee wage deductions aren't enough to meet the legal requirements in many states.

If you're making different deductions from workers' pay, it's best to have them specifically sign off on each.

Cite: *Albelo v. Epic Landscape Productions L.C.*, No. 4:17-cv-0454-DGK, U.S. D.C., W.D. Missouri, 6/28/21.

Form 941 ...

(continued from Page 1)

the employee retention credit. The refundable portion is reported on line 13d. With the COBRA premium assistance credit, use line 11e to report the nonrefundable portion of the credit and line 13f to report the refundable portion of the credit. You also need to report the number of people who received assistance on line 11f.

In the instructions for this quarter's Form 941, the IRS emphasized that employers can't use an earlier revision of the form to report this year's taxes.

Even if you're not claiming any of the ARPA tax credits this year, you'll still have to use the most recent version of the form. The March 2021 revision can only be used to report taxes for the first quarter of 2021.

The IRS anticipates that the June 2021 revision won't change for the rest of the year, but any last-minute updates to the law may require the agency to update the form.

More info: irs.gov/forms-pubs/about-form-941

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.

■ IS EMPLOYER REQUIRED TO LET WORKER SPLIT DUTIES?

"Remember Teri Hamblin?" HR Manager Cheryl Jones asked Payroll Manager Pat Gray as she walked into Pat's office.

"I sure do – it was a shame about all her health problems," Pat said. "I know she had split her duties with another co-worker and was working part-time before she was let go."

"Yes," Cheryl said. "She wanted the arrangement to be permanent after her doctor said her health would make it tough to go back to her old job full time.

"But it just wasn't feasible for us to keep doing that, so we let her go," Cheryl continued. "Now, she's suing because of it."

A different position

"That's too bad," Pat said.

"Was any other position available that she could've taken instead?"

"See, that's the thing, there was," replied Cheryl. "She didn't want to take it, though. It was pretty equal to her old job, just slightly different duties. But she said she wanted to keep her current job and keep sharing tasks with her co-worker.

"We couldn't make that work," continued Cheryl. "So she's saying in her lawsuit that we didn't do enough to accommodate her illness."

The former employee claimed the employer violated the Americans With Disabilities Act when it didn't allow her to keep her old position. The employer said it tried to work with the employee, but she didn't accept its proposed accommodation for her illness. Who won?

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



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Retirement plans: Federal committee proposes changes you must know

■ LEGISLATORS CONSIDERING MORE PROVISIONS TO HELP WORKERS SAVE

Lately, lawmakers have been focusing more on helping people save for retirement – and many of their solutions involve Payroll.

Even more changes could be coming soon, according to a statement from the ERISA Industry Committee (ERIC).

In the statement, the committee praised recent efforts to boost workers' retirement savings in legislation such as the American Rescue Plan Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

But ERIC also said more effort is needed to ensure that all Americans can retire comfortably. So it made some suggestions for changes, some of which have already been proposed in Congress.

Here's a preview of what would impact you and your people the most.

Measures under review

Many employees have student loan debt, and that prevents them from putting adequate money toward their retirement. One of ERIC's proposals

is that Congress should allow for matching student debt payments from employers, similar to matching contributions for retirement plans.

While some private vendors have implemented similar programs for individual employers, nothing exists on a nationwide scale just yet.

Another change you might see will cut red tape for retirement plan sponsors. ERIC wants Congress to reduce administrative burdens by streamlining certain plan notice requirements and expanding on the self-correction process for issues.

You could also see increased limits for catch-up contributions for older employees who are close to retirement.

When looking at highly compensated employees (HCEs), ERIC wants lawmakers to update the definition of who's considered an HCE for plan purposes while making sure nondiscrimination rules are followed.

ERIC is also encouraging Congress to promote emergency savings funds that allow employees to make limited pretax withdrawals or deferrals specifically for financial emergencies without having to pay a penalty.

We'll keep you posted.

More info: bit.ly/retire627

FSA reimbursement after termination? IRS guidance

The IRS recently discussed what's allowed when employees haven't used all their funds in health flexible savings arrangements (FSAs) and their employment ends.

Chief Counsel Advice 2021-005 explained employers have flexibility, thanks to the Taxpayer Certainty and Disaster Tax Relief Act of 2020.

That law, which came as a response to the COVID-19 pandemic, permitted employers to reimburse FSA expenses up to 12 months after the end of a plan year. For example, if the original deadline was Dec. 31, 2020,

employers could opt to push that back to Dec. 31, 2021.

Unused funds due to COVID-19

As the IRS said in its advice, employers can even adopt a special rule regarding post-termination reimbursements from FSAs.

The amount can be limited to salary reduction contributions made from the beginning of the plan year in which the employee's participation in the plan occurred.

More info: irs.gov/pub/irs-wd/21-0005.pdf

■ NEW DEADLINE FOR EEO-1 COMPONENT 1 DATA REPORT

Employers now have a bit more time to get their EEO-1 Component 1 data reports submitted.

The EEOC has extended the report deadline from July 16, 2021, to Aug. 23, 2021.

It's still wise for you to complete the report as soon as possible, especially if you need to make any changes or updates with the EEOC first. The report's Filer Support Team has a backlog of requests, so the sooner you submit one, the better.

More info: eeocdata.org/EEO1/home/index

■ SUPREME COURT DISMISSES REMOTE WORKER TAX CASE

The Supreme Court won't allow one state's lawsuit against another for taxing remote workers to move forward, declining to hear the case.

New Hampshire, a state without an income tax, filed a complaint when Massachusetts passed a reg saying that employees who normally worked in the state, but were working elsewhere during the coronavirus pandemic, would still be subject to Massachusetts income tax.

The High Court said the state didn't have a case because it had no standing to sue Massachusetts.

More info: bit.ly/nhtax627

■ IRS EXTENDS RETIREMENT PLAN RELIEF PROVISION

Notice 2021-40 extends the IRS' temporary relief of the physical presence requirement for certain retirement plan elections.

The relief will remain in place until June 30, 2022. That means a notary public or plan representative won't have to be present when a participant makes these changes.

The IRS may make this permanent later. We'll keep you posted.

More info: irs.gov/pub/irs-drop/n-21-40.pdf

TEST YOUR KNOWLEDGE

■ How employers must handle issues with HSA contributions

What happens if an error occurs with contributions to an employee's health savings account (HSA)? The IRS Office of Chief Counsel recently released new guidance to offer assistance to employers.

Test yourself on your knowledge about what you should do in this situation by answering *True* or *False* to the following:

1. If an employer accidentally makes contributions to an employee's HSA that exceed the annual limit, that money is forfeited.
2. Employers need to file Form 5498-SA with the IRS to report any changes to an employee's HSA contribution when errors are discovered.
3. Employees can find out how much they've contributed to an HSA on Form W-2.
4. Typically, most HSAs are subject to the terms of ERISA.

ANSWERS

Answers to the quiz:

1. *False.* If contributions to an HSA exceed the annual limit, the employer can contact the financial institution and ask for the money to be refunded. In cases where this doesn't happen, the excess amount must be reported on the worker's Form W-2 as income for that year.
2. *False.* HSA custodians file Form 5498-SA with the IRS to give the agency general info about an employee's HSA.
3. *True.* The total contributions to HSAs from employees and employers are reported as a combined amount with code W in Box 12 of Form W-2.
4. *True.* Exceptions can be made if the plan meets the requirements for any available safe harbors.

More info: bit.ly/hhserrors627

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.

Intentionally wrong pay rates cost employer \$1.5M

Employer: Neoly Home Care LLC, Harrisburg, PA.

Business: Home health care.

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

Type of violation: The employer changed pay rates to make it appear as if it paid workers overtime. In fact, it actually paid employees at straight-time rates for overtime hours. When employees worked additional hours in a workweek, they were paid at lower rates.

Penalty: Neoly Home Care was ordered to pay \$1.56 million in back wages to 246 employees. It also had to pay an additional \$46,376 in monetary penalties.

Government office: Dept. of Labor, Wage and Hour Division, Philadelphia District Office.

Young employee injured by using banned equipment

Employer: Piggly Wiggly, Nahunta, GA.

Business: Supermarket.

Law broken: Child labor provisions of the Fair Labor Standards Act.

Type of violation: A 16-year-old employee was injured after placing his hand into a meat grinder while cleaning it during his shift. Fortunately, his injuries were minor. Employees under 18 aren't allowed to operate or clean power-driven food machines such as meat grinders while working.

Penalty: The employer was ordered to pay a penalty of \$7,254.

Government office: Dept. of Labor, Wage and Hour Division, Atlanta District Office.

2 restaurants serve up multiple wage violations

Employer: Rancho Loco Grill and Bar, Red Wing, MN, & Rancho Loco Mexican Grill and Bar, Cannon Falls, MN.

Business: Restaurants.

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

Type of violation: Servers and other front-of-the-house workers were only paid for 60 hours over a two-week pay period, regardless of how many hours they actually worked. Servers were also required to report early for prep work, but couldn't log in until their first customers arrived. Additionally, cooks and dishwashers were wrongly classified as independent contractors instead of employees.

Penalty: Thirty-six workers from the two restaurants will receive \$435,785 in back wages.

Government office: Dept. of Labor, Wage and Hour Division, Minneapolis District Office.

Employer fires worker on FMLA leave, pays \$45K

Employer: Precoat Metals, St. Louis.

Business: Metal finishing.

Law broken: Family and Medical Leave Act (FMLA).

Type of violation: An employee taking protected FMLA leave was terminated without notice.

Penalty: The worker will receive \$45,014 in back wages and benefits.

Government office: Dept. of Labor, Wage and Hour Division, St. Louis District 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 Tapped various sources to learn about brand-new role

When the vice president of our organization retired, I was appointed to take on her HR responsibilities, along with some payroll duties.

Even though we had someone on staff to help me with payroll, there was a lot to learn.

Frame of reference

When I came across something I wasn't sure about, one of the first places I'd go to research it was

a government website. This helped me figure out the basics, like if we were using the most current forms for onboarding our new employees, including Form W-4, Form I-9 and others.

When it came to mastering other things I didn't already know, our former VP said I could call or email her any time with questions.

She even connected me with an email peer group for HR pros in

our industry at companies the same size as ours. The group has been a supportive source of information.

Thanks to these resources, I have a much better handle on what to do with important employment paperwork and how to answer our employees' benefits questions than I did a few months ago.

(Carla Rake, operations center specialist, Farmers & Merchants Union Bank, Columbus, WI)

2 Made sure new Payroll services benefited workers

Although Payroll was doing its best to meet employees' needs, we weren't sure if we were focusing on the right things.

While our main concern was accurately paying employees each pay period, we knew workers may have other questions and concerns for us, especially with all the recent tax changes.

We didn't have a lot of time and resources available since we were also adjusting to these changes. So we wanted to make sure any extra

services or information we offered to employees was useful and necessary.

Penny for their thoughts

To ensure we were on the right track, we sent out a survey to our people before we made any changes. In it, we asked them what info they cared about, what they wanted to see on their paystubs, what we could do to improve their experience and what payroll education would benefit them.

Not only did we use their answers to implement changes to help them

understand their paychecks better, our efforts also made them

feel more comfortable with bringing up any pay issues immediately, which helped us resolve them ASAP.

(Adapted from "Transform Payroll From a Transaction to a Human Interaction," presented at the 2021 American Payroll Association Virtual Congress)

**REAL
PROBLEMS
REAL
SOLUTIONS**

3 Preparing for long-term effects of the pandemic on employees

We were concerned that our remote workforce could be experiencing anxiety, depression and loneliness.

To help keep our employees engaged, we held virtual water cooler chats where people could join in whenever they liked and casually talk to one another like they would in a common area at the office.

The conversations often turned to things they were struggling with, like caring for a family member on top of their work duties.

We anticipate there'll be lingering mental health effects from COVID that will require us to prioritize employee wellness. Someone may still need support a year from now for an issue they're going through.

Support is available

To help, we started sending a series of companywide "Wellness Wednesday" emails. They encourage people to:

- be aware of signs and symptoms of mental health risks

- share success stories that reduce the stigma of mental health care
- join peer support groups
- use our EAP resources, and
- have a crisis support hotline programmed into their phone.

The emails have been well received.

(Dr. Keita Franklin, chief clinical officer, Loyal Source Government Services, as presented during the NSC State of Response and Future World of Work Virtual Summit)

TRENDS TO WATCH

Expanded Same Day ACH popular with Payroll pros, new survey shows

■ MILLIONS OF DOLLARS TRANSMITTED IN NEW THIRD PROCESSING WINDOW

Payroll and Finance pros are already taking advantage of the new expanded window of time for Same Day ACH.

The third window, added in March 2021, allows same-day transactions to be initiated as late as 4:45 p.m. EST and received by 5:30 p.m. EST so they can be settled by 6 p.m. EST. Funds are available by the end of the processing day.

A new survey from Nacha and its Risk Management Advisory Group examined the popularity of Same Day ACH. And it's clear that the new third window has been beneficial for everyone involved.

Growing transactions

All Originating Depository Financial Institutions (ODFIs) surveyed said clients used the third window of Same Day ACH to handle business-to-business payments.

Plus, most of them (87%) used the third window specifically for payroll.

Same Day ACH can benefit Payroll pros in a variety of ways, especially when it comes to cutting checks for temp workers or independent contractors or meeting timely pay requirements for terminations. It can also prevent delays with paying new hires and help you more quickly correct any paycheck errors you discover at the end of a pay period.

Expanding Same Day ACH has been helpful for Accounts Payable as well: Three-quarters of ODFIs received bill payments from customers via the third window of Same Day ACH.

The average daily value of debits and credits that originated during the new third window ranged from an average of \$1 million to an average of \$97 million.

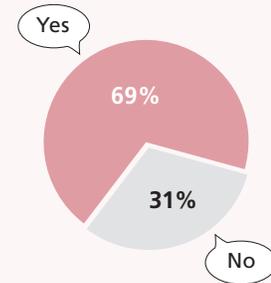
And this only is expected to grow. The majority of survey respondents expected to see many payments over \$100,000 being transmitted via Same Day ACH once the daily limit rises to \$1 million in 2022.

Plus, most of the Receiving Depository Financial Institutions (RDFIs) surveyed – 86% – have received Same Day ACH transactions

WHAT PAYROLL PROS TOLD US

Pandemic & bonus pay

Did you award bonuses to your employees in 2020?



Source: 2021 Association for Financial Professionals Compensation Survey

Fewer bonuses, hiring freezes and salary cuts were common for Finance pros during COVID-19. Now that things are easing up for employers, get ready for this to change.

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

in the third window since it's been implemented. Also, 19% of RDFIs and nearly 13% of ODFIs said they've experienced some volume growth in transactions initiated during the second processing window since March 2021. This data makes it clear that Same Day ACH is here to stay.

More info: bit.ly/samedayach627

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

The employer won the case, and the district court's decision was upheld when the ex-worker appealed.

Because the employer didn't allow her to remain in her former position with help from a co-worker, she claimed it didn't accommodate her disability under the Americans With Disabilities Act (ADA).

However, the employer said that arrangement wasn't feasible for the company long term. So instead, it offered her another alternative (a different, comparable position) that she didn't accept.

The court said that was all the employer was legally obligated to do under the ADA. It wasn't required to create a new position for the employee or give her the specific accommodation she requested – it was only required to offer the worker a "reasonable accommodation" based on its business needs and requirements.

And while the definition of reasonable accommodation

can be interpreted in multiple ways, the court said the ADA would never force an employer to create a whole new position for a worker as an accommodation.

Analysis: When illness changes job duties

Employees' duties and responsibilities can change for multiple reasons, including illness or disability. In these situations, it's crucial to double-check that these changes are compliant with all relevant employment laws.

Different duties may change how an employee is classified under the Fair Labor Standards Act, and that can have a significant impact on how they're paid for the work they do. And, when the ADA comes into play, there may be other considerations you'll also have to keep in mind, such as tracking medical leave.

Remind supervisors to keep you updated on any status changes with employees. That way, you'll know what you should look out for when classifying and paying them.

Cite: *Perdue v. Sanofi-Aventis US LLC*, No. 19-2094, CA4, 6/8/21. Note: Dramatized for effect.

Industry news you can use

■ Portland, ME, voter-approved hazard pay ordinance upheld

Thanks to local voters, grocery store employees and other essential workers in Portland, ME, must receive hazard pay if they work during a state of emergency (such as the COVID-19 pandemic), but the rule won't go into effect until Jan. 1, 2022.

The ordinance was immediately challenged after it was passed in November 2020, and two grocery store employees took their case to the state supreme court. While the court upheld the ordinance, it said the rule's language prevented an effective date earlier than the start of 2022.

More info: bit.ly/mehazpay627

■ Meal periods on airplane were bona fide under federal law

Automatically deducting a meal period from the pay of aviation security officers on domestic and international flights was allowed by the Fair Labor Standards Act. This is according to a CA5 decision

in *Dean v. Akal Security Inc.* The security officers sued, saying the meal periods weren't bona fide under the law because the employees couldn't do things like leave the plane, make phone calls or use the internet.

However, the appeals court said these restrictions were due to the nature of their work on an airplane and they didn't benefit the employer, so the meal break deduction was valid.

More info: bit.ly/securitymeal627

■ DOL: Data needed to establish ID construction prevailing wage

The Dept. of Labor (DOL) is asking Idaho employers in the building and heavy construction industries to take a wage survey to help establish new prevailing wage rates.

Any employers working on active construction projects between July 1, 2019, and Dec. 31, 2020, are eligible to participate. Data must be submitted online or via mail by Oct. 22, 2021.

More info: dol.gov/newsroom/releases/whd/whd20210602-0

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 can I prevent eye strain when working on computer?

Q: I just got diagnosed with eye strain at the doctor's. Although I can limit my screen time at home, I can't do that in the office when I'm processing payroll. What can I do to protect my eyesight while I work?

A: When you're trying to meet those payroll deadlines and you can't avoid hours at your computer, experts recommend the "20-20-20 rule." Every 20 minutes, take your eyes off

your screen and look at an object 20 feet away for 20 seconds. Changing the brightness and contrast on your monitor may help. In addition, you can increase the font size in the Display menu (found under Control Panel for PCs and System Preferences for Macs). Blue light glasses (or lenses for prescription glasses), which are designed to reduce the impact of a screen's lighting on your eyes, can also reduce eye strain. And if you're referencing paper documents often, try a document holder to keep them at eye level with your screen.

More info: bit.ly/eyestrain627

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, and other publications contains Payroll-related updates.

- Form 8946, *PTIN Supplemental Application For Foreign Persons Without a Social Security Number*. Revised June 2021. Posted 6/11/21 by IRS.
- Publication 1281, *Backup Withholding for Missing and Incorrect Name/TINs*. Revised May 2021. Posted 6/14/21 by IRS.
- Publication 7334, *Employee Benefit Plans, Explanation No. 11, Employee and Matching Contributions*. Revised June 2021. Posted 6/15/21 by IRS.
- Publication 6393, *Employee Benefit Plans, Explanation No. 5 Safe Harbor Nondiscrimination Requirements Defined Contribution Plans*. Revised June 2021. Posted 6/16/21 by IRS.
- Publication 5528, *Nonqualified Deferred Compensation Audit Techniques Guide*. Revised June 2021. Posted 6/17/21 by IRS.
- Publication 5534, *2021 Advance Child Tax Credit*. Revised June 2021. Posted 6/17/21 by IRS.
- Publication 5296, *Comprehensive Taxpayer Attitude (CTAS) 2020 Executive Report*. Revised April 2021. Posted 6/22/21 by IRS.

More info: Find links by going to www.keeptodateonpayroll.com/forms-and-publications-627

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!

ALABAMA

- **WORKER CLASSIFICATION:** To determine whether someone is an employee or an independent contractor for unemployment insurance purposes, employers must now use the IRS' common law test from Revenue Ruling 87-41, due to HB 408, effective July 1, 2021. **More info:** bit.ly/alclassify627

CALIFORNIA

- **PAID SICK LEAVE:** The mayor of Los Angeles has issued an order requiring private employers to provide workers with paid leave related to the COVID-19 vaccine. Those with 25 or fewer employees must provide full-time workers with up to four hours of leave for each vaccination and up to eight hours of leave to recover from any side effects. Larger employers are already covered under the city's supplemental paid sick leave order, but the new order requires them to provide more paid leave to workers receiving vaccines if needed. **More info:** bit.ly/cavaccine627

ILLINOIS

- **UNCLAIMED PROPERTY:** SB 338 changes several requirements for reporting unclaimed property. Among other changes, businesses that don't have any unclaimed property to report must notify the state of this if certain criteria are met. **More info:** bit.ly/ilunclaimed627

LOUISIANA

- **TAX RELIEF:** Due to severe storms and flooding that occurred in Louisiana in May 2021, the

state department of revenue has granted business taxpayers located in federally declared disaster areas extensions on state tax filing and payment deadlines occurring from May 17, 2021, to Aug. 15, 2021. The new deadline is Aug. 16, 2021. Affected areas include Ascension, Calcasieu, East Baton Rouge, Iberville and Lafayette parishes. **More info:** bit.ly/lataxrelief627

MAINE

- **FAMILY LEAVE:** LD 61 amends the Maine Family and Medical Leave Act to give employees the right to take unpaid leave to care for their grandchild or a domestic partner's grandchild with a serious health condition. The law should be in effect by fall 2021. **More info:** bit.ly/megrandchild627

OHIO

- **TAXES:** The state department of taxation is amending the rule that determines an employee's residence for income tax purposes. New factors that may be considered under the proposed rule include the area where an employee's registered to vote. **More info:** tax.ohio.gov/static/legal/rules/5703-7-16.pdf

TEXAS

- **TAXES:** Unemployment insurance tax rates will remain the same for employers in 2021 because of the pandemic, due to legislative action by the Texas Workforce Commission. That means the UI replenishment tax rate will be 0.21%, which includes a 0.03% obligation assessment to cover any interest on federal UI loans due on Sept. 30, 2021. **More info:** bit.ly/txuitax627

VERMONT

- **NEXUS:** Any remote workers who aren't permanent residents of the state, but are temporarily working and living in Vermont, are subject

to state income taxes on any wages they earn, according to the Vermont Dept. of Taxes. Recently, the department issued updated guidance saying that any employee residing in Vermont for more than two weeks must pay tax on any income earned while they're working in the state, even if they primarily live in another state or work for an out-of-state employer. **More info:** tax.vermont.gov/coronavirus

WASHINGTON

- **TAXABLE WAGE BASE:** For 2022, the unemployment insurance taxable wage base will increase to \$62,500 (up from \$56,500 in 2021) due to an increase in the state's average annual wage. The average annual wage grew by 10.1% in 2020 to \$76,741 – the largest increase on record. **More info:** bit.ly/wawagebase627

THE LIGHTER SIDE

After attending so many virtual meetings over the past year, you may finally be able to tune out your co-workers' sounds or surroundings.

One woman attempted to find out just how closely her co-workers observed her during Zoom meetings.

Starting as a prank, the woman decided to wear the same shirt to every Zoom meeting she attended. And she didn't just choose a plain blouse. She wore a Hawaiian print shirt with pineapples and flowers.

In all, she donned the shirt for 264 different video meetings – and no one said anything about it.

When she finally confessed on her last day, none of her co-workers knew what she was talking about since they hadn't noticed a thing.

Lesson learned: What you wear to work doesn't matter (within reason)!

Cite: bit.ly/shirt627