

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™

October 15, 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.

### ■ \$500 CREDIT FOR PENSION PLAN STARTUP COSTS

**Item:** Form 8881, *Credit for Small Employer Pension Plan Startup Costs*.

**Background:** The form is used to claim a credit for startup costs related to eligible retirement plans. The credit is 50% of the qualified costs per tax year, up to \$500 for the first tax year and each of the two subsequent tax years.

**Comments due:** 11/16/21.

**Cite:** *Federal Register*, 9/17/21.

### ■ CREDIT FOR DIFFERENTIAL WAGE PAYMENTS

**Item:** Form 8932, *Credit for Employer Differential Wage Payments*.

**Background:** Differential wage payments made to qualified employees may be eligible for a credit of 20% of the first \$20,000 of payments.

**Comments due:** 11/15/21.

**Cite:** *Federal Register*, 9/15/21.

Go to [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys) for copies of the forms.

## What does new federal holiday mean for Payroll in 2022?

### ■ Juneteenth law came as a surprise in 2021

Prep for 2022 is underway, and that includes thinking ahead to holidays. The new federal holiday, Juneteenth, will require some careful thought for Payroll.

In 2021, you had zero time to prepare. President Biden signed the Juneteenth National Independence Day Act on June 17, making June 19 a legal public holiday.

To complicate matters, because June 19 fell on a Saturday in 2021, the holiday was observed on Friday, June 18, 2021.

That raised questions. What would the IRS require of semiweekly tax depositors, given the June 18 due date already on the 2021 calendar? Would banks be open so employees

paid by direct deposit would receive their wages on time? Would your organization make a snap decision, giving employees an extra holiday?

### 4 ways to get ready

You can mark your calendar now for Monday, June 20, 2022. After all, the Juneteenth holiday will fall on a Sunday next year.

Here are three considerations:

1. Juneteenth meets the IRS definition of "legal holiday." The IRS mirrors Washington, DC, and in 2021, the mayor there issued a press release saying Juneteenth would be observed.

So, in 2022, you can look forward

(Please see *Holiday ...* on Page 2)

## At-home COVID-19 tests? IRS update for FSAs, HSAs

Can you add at-home COVID-19 tests to the list of eligible medical expenses for tax-favored health plans your company offers employees?

Yes, the IRS recently said, giving employees more flexibility.

In IR-2021-181, the IRS verified that if employees purchase at-home COVID-19 tests, they can be paid or reimbursed for those expenses under the following plans:

- health flexible spending arrangements (FSAs)
- health savings accounts (HSAs)
- health reimbursement arrangements (HRAs), and

- Archer medical savings accounts (Archer MSAs).

### Other eligible medical expenses

The IRS had previously stated, in IR-2021-66, that the cost of personal protective equipment (PPE) used to prevent COVID-19 could be paid or reimbursed under FSAs, HSAs, HRAs and Archer MSAs.

That PPE? Masks, hand sanitizer and sanitizing wipes.

Note: IRS has started rolling out year-end changes to benefit plans. We'll keep you updated.

More info: [bit.ly/testing632](https://bit.ly/testing632)

## Expense reports told different story than timesheets about hours worked

■ EMPLOYEES WROTE DOWN ‘8 HOURS’ BUT CLAIMED THEY WORKED OT

If according to your timekeeping records employees took breaks for lunch, you wouldn’t think they’d need to be paid for that time. But what if other company documents, such as expense reports, contained line items placing them at business lunches?

That happened in *Bolding v. Banner Bank*, a federal district court case in which mortgage loan officers sued their employer for unpaid overtime.

They claimed they had to write “8 hours” or “8am to 4pm” on their timesheets, even if they worked more hours than that.

In its defense, the bank said regional managers couldn’t have known about any unreported time worked. Internal records proved otherwise, though, said the court.

Regional managers approved

their expense reports, complete with receipts, showing the employees at business lunches or participating in other work-related activities.

More proof: Sometimes, outside of work hours, the mortgage loan officers logged into the bank’s system using remote access.

The court said the overtime case should proceed.

### Verifying hours worked

Remind managers that verifying employees’ hours starts but doesn’t end with the timekeeping system.

They can also examine other internal records, ranging from expense reports to computer logs.

**Cite:** *Bolding v. Banner Bank*, C17-0601RSL, U.S. D.C., W.D. Washington, 9/13/21.

### Holiday ...

(continued from Page 1)

to a break from making tax deposits to the IRS that day.

2. It’s likely that more states will add Juneteenth as a holiday, shifting your tax responsibilities there, too. We’ll keep you updated on this.

3. The Federal Reserve has already added Juneteenth National Independence Day to its list of banking holidays, noting its observance in 2022 on June 20.

So for companies with a payday that’d normally occur on that Monday, consider whether you’ll pay employees on the Friday before the holiday.

4. Businesses aren’t required to offer employees time off, paid or unpaid, on federal holidays. But now’s the time to discuss with HR and others in your organization whether any scheduling adjustments are under consideration – for Juneteenth or other holidays. Then you can ensure that your payroll system gets updated.

**More info:** [bit.ly/holiday632](http://bit.ly/holiday632)

## 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.*

### ■ ACCURATE METHOD FOR CALCULATING COMMISSION?

“I’m in the middle of processing payroll, and I have some questions about the commission payment for one of your salespeople,” Payroll Manager Pat Gray told Supervisor Emma Rivera.

“Sure,” said Emma. “I hope you can hear me okay. I have you on speaker because I’m driving to meet some clients for lunch. If this is about Samuel’s commission, I just went over the calculations again last night, so I believe that net profit number I gave you is right.”

### Net profits multiplied by 15%

“Great,” said Pat. “Next step would be for me to calculate 15% of the net profit, and then what?”

“Some of what we’re paying him will be in the form of a 401(k) contribution – I believe it’ll be about \$7,000 – and the rest should be included in his direct deposit on payday,” explained Emma.

“We’re on the same page with the retirement plan number: I came up with \$7,041,” noted Pat.

“Yep, thank you. Hey, I’m pulling into the parking garage. I might lose you.” Emma’s voice was breaking up.

Pat talked faster. “The only other thing is, I want to make sure we’re paying his commission according to the contract terms. Hello? Emma?” But the call had dropped.

Later, the salesman sued, saying his contract had been changed without his permission and his commission payments were wrong. The company asked the court to dismiss the case. Did it succeed?

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

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## IRS makes more 941-X changes to keep pace with COVID-related laws

■ LEGISLATION IN 2020 AND 2021 PROMPTED MULTIPLE REVISIONS

If you look over the latest version of Form 941-X, you'll notice some changes. In fact, the form has been "significantly revised," as the IRS put it.

In its effort to update its forms to reflect the requirements of so many new laws, the IRS has fallen into a pattern: First, the 941 is updated – then, the 941-X.

For example, the latest versions of Form 941 and its instructions have a June 2021 revision date. They were posted June 24, 2021. (Note: You needed those for the Q2 deadline which was Aug. 2, 2021.)

The latest versions of Form 941-X and its instructions have a July 2021 revision date. The IRS didn't post those until mid-September.

Important: If you need to file Form 941-X for any quarter, you should supplement the 941-X instructions with the 941 instructions for that quarter, says the IRS.

That's because the 941 instructions are more comprehensive.

So which law prompted the latest round of changes to the 941 and

941-X? The American Rescue Plan Act of 2021, which – among other things – extended and amended the credit for qualified sick and family leave wages.

### 5 worksheets

If you like worksheets, then good news for you: The 941-X instructions contain five of them (increased from just one).

They are:

- **Worksheet 1**, Adjusted Credit for Qualified Sick and Family Leave Wages for Leave Taken Before April 1, 2021
- **Worksheet 2**, Adjusted Employee Retention Credit for Wages Paid After March 12, 2020, and Before July 1, 2021
- **Worksheet 3**, Adjusted Credit for Qualified Sick and Family Leave Wages for Leave Taken After March 31, 2021
- **Worksheet 4**, Adjusted Employee Retention Credit for Wages Paid After June 30, 2021, and Before January 1, 2022, and
- **Worksheet 5**, Adjusted COBRA Premium Assistance Credit.

More info: [irs.gov/form941](https://irs.gov/form941)

## Late-in-the-game e-filing regs expected from the IRS

The year-end clock is ticking, and the IRS still hasn't issued final regs on the electronic reporting of W-2s, 1099s, 1095s and other forms.

The Taxpayer First Act of 2019 called for an increase in electronic filing, and while we saw proposed regs from the IRS on July 23, 2021, nothing has been set in stone yet.

That's making planning difficult.

### Get a tally of forms now

Here's what we know based on the proposed regs: Not only will the electronic filing threshold be lower for

TY 2021 (going from 250 to 100), but for the first time this year-end, you'll need to count forms in aggregate to see if you need to file electronically.

Instead of continuing to wait, you in Payroll may want to prep now by comparing notes with A/P, HR and other key players internally to tally up the number of returns. Consider: Who will take responsibility for e-filing?

Also new this year-end: Your filing method for original returns must be used for any corrected returns, according to the proposed regs.

More info: [bit.ly/testing632](https://bit.ly/testing632)

## NEWS YOU CAN USE

### ■ DISCREPANCY OVER AMOUNT OF RETIREMENT BENEFITS

If employees access records via an online portal provided by your company or a third-party, better make sure the info is accurate.

In a recent Ninth Circuit Court of Appeals case, *Bafford v. Northrup Grumman*, two employees received pension benefit estimates by plugging potential retirement dates into an online platform. Only after they retired did they find out the info was inaccurate. Instead of monthly payments of \$3,600, they got about \$1,600.

Most of the employees' legal claims didn't stand, but what a costly mess for all involved.

More info: [bit.ly/recordkeeping632](https://bit.ly/recordkeeping632)

### ■ OKAY TO TRUNCATE SOCIAL SECURITY NUMBERS AGAIN

This will be the second tax year you can choose to truncate Social Security numbers (SSNs) on Forms W-2 and Forms W-2C.

Just remember:

- Use asterisks or Xs to block the first five digits of SSNs.
- Mask SSNs only on employees' copies of forms.

More info: [www.irs.gov/pub/irs-pdf/iw2w3.pdf](https://www.irs.gov/pub/irs-pdf/iw2w3.pdf)

### ■ PAYROLL COMPANY SHUT DOWN: WHAT HAPPENED?

Most payroll companies are trustworthy, but be aware there are bad apples, such as this one that suddenly stopped issuing paychecks in 2019: MyPayrollHR, based in NY.

Turned out, Michael Mann, CEO of ValueWise Corp. as well as some subsidiary payroll companies, had been running a fraud scheme.

But no more. Mann was recently sentenced to 144 months in prison, and he must pay over \$100 million in restitution to victims.

More info: [bit.ly/mann632](https://bit.ly/mann632)

■ **Guidelines on IRS penalties: Important info for Payroll**

Even if you never have to pay a penalty to the IRS for a late return, missed payment or another tax issue, it's important to know the agency's protocol, just in case.

Test yourself on the IRS' guidelines for handling various penalties by answering *True* or *False* to the following.

1. The IRS has started sending email notices about tax penalties that it's assessed to employers.
2. Interest is added to each IRS penalty starting 30 days after the original due date.
3. Employers can only avoid paying interest on an IRS penalty if the agency has removed or reduced the penalty.
4. To start the process to dispute a tax penalty, employers can either call the IRS or send a letter discussing the reasons why the penalty should be removed.

ANSWERS

- Answers to the quiz:**
1. *False.* When the IRS charges employers a penalty, it'll send a notice or a letter via regular mail that discusses the penalty and the reason it was charged, along with how they should proceed next.
  2. *False.* The date when interest starts to accrue on IRS penalties varies depending on the type of penalty. Once the date is reached, interest will continue to be charged until it's paid in full.
  3. *True.* If employers prove they either had reasonable cause for not making a payment or filing on time or acted in good faith, the IRS can reduce or cancel a penalty.
  4. *True.* Notices and letters may also have additional instructions for disputing specific penalties, so be sure to follow those guidelines.
- More info:** [bit.ly/penalties631](http://bit.ly/penalties631)

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.*

**Bar owes nearly \$550K for multiple FLSA violations**

**Employer:** BHMK Enterprises LLC, dba Bottle Bar East, Philadelphia.

**Business:** Bar and bottle shop.

**Law broken:** Minimum wage, overtime and recordkeeping requirements of the Fair Labor Standards Act (FLSA).

**Type of violation:** Bartenders and servers weren't paid any cash wages and worked only for tips. Tipped employees also weren't paid for time spent at quarterly staff meetings. And various employees didn't receive overtime pay. Plus, the bar didn't maintain its payroll records properly.

**Penalty:** Bottle Bar East must pay \$246,458 in back wages and an equal amount in damages to 73 workers. It must also pay an additional \$25,729 in penalties.

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

**2 employers out \$210K after multiple H-2B issues**

**Employer:** Dune Resorts LLC and Ocean Bay Management, East Hampton, NY.

**Business:** Hotel management.

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

**Type of violation:** H-2B workers were required to do tasks outside their approved job classification. The company didn't pay them for their travel costs, and housing costs were deducted from their wages without notice. Also, housekeepers were paid too little.

**Penalty:** Both will pay \$210,000 total in back wages and damages.

**Government office:** Dept. of Labor, Wage and Hour Division, Westbury, NY, office.

**Employee fired after FMLA leave request was ignored**

**Employer:** BFI Waste Management, Little Rock, AR.

**Business:** Waste management.

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

**Type of violation:** The company fired a worker for being absent, even though the employee informed a supervisor of the need for FMLA leave and the leave was approved by the company's third-party FMLA administrator. Even after the company learned that the FMLA leave was approved, it didn't rehire the worker.

**Penalty:** The worker will receive \$36,007 in back wages.

**Government office:** Dept. of Labor, Wage and Hour Division, Little Rock, AR, office.

**Back wages for workers who didn't receive OT pay**

**Employer:** Rayville Recovery, Rayville, LA.

**Business:** Addiction treatment.

**Law broken:** Recordkeeping and overtime provisions of the Fair Labor Standards Act.

**Type of violation:** Employees worked long shifts and weekend hours, but didn't receive overtime pay. The employer also didn't provide complete payroll records.

**Penalty:** Six workers received \$23,510 in back wages.

**Government office:** Dept. of Labor, Wage and Hour Division, New Orleans 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 'What is ... a more effective, enjoyable training session?'

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When it comes to rolling out a new process, software or program, we want our staffers to be well-equipped and confident after training. But as we all know, training sessions can quickly turn into a big snooze fest.

It's hard to keep everyone engaged when you're talking through instructions and tedious process steps.

And the more long-term downside to boring training sessions is staffers don't retain the information.

For the sake of our staffers and our company's efficiency, we needed to shake up our training sessions.

### Creating experts

How did we do it? By replacing our usual lectures with trivia-based, interactive training.

Before a session, we email everyone a short document with new material to review beforehand. Then we break staffers into groups and randomly call

on them to answer questions about the material. If someone gets the answer wrong, they're out of the game – but their group continues. The team with the most members left at the end wins.

(And the more important the topic is, the bigger the prize is.)

Now during training, there's a lot less snoozing and a lot more laughter and learning.

*(Penny Powers, director of HR, NDC Real Estate Management, Pittsburgh)*

## 2 Shared experience to boost FSA, HSA participation

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Our employees had a hard time understanding how a flexible spending arrangement (FSA) or health savings account (HSA) could help them.

They seemed to be stuck in a mindset that it simply meant money coming out of their paycheck and bank account. It was time to change that inaccurate perception.

### Took different approach

It turned out the best way to encourage our people to take advantage of these fringe benefits was

by giving them a real-life example. I'd recently had a dentist visit requiring an immediate payment that was higher than expected. It's times like that when an FSA or HSA is a life saver.

After retelling my story during open enrollment, I explained to our employees that FSAs and HSAs don't involve their personal bank accounts and they don't have to pay taxes on the contributions.

Instead of looking at these accounts for eligible health expenses as yet another deduction from their

take-home pay, our employees are starting to come around to the value of this benefit.

Sharing a real-life example of how employee fringe benefits can be used went a long way in improving rates of participation.

*(Allen Abiva, HR and payroll supervisor, Progress Foundation, San Francisco)*

**REAL  
PROBLEMS  
REAL  
SOLUTIONS**

## 3 No such thing as a smooth tech change, so we're vigilant

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As we all know from experience, if you're making any technology changes, you're going to hit bumps in the road.

That's the case whether it's new office equipment, upgraded software or just the latest update to a system or program.

In the payroll field, though, we need to get paychecks into employees' bank accounts without fail.

Here at our nonprofit, we know how dedicated employees are to

serving our clients, and we don't want payroll-related technology to slow any of us down.

### Find it, fix it

So we approach tech changes with the idea that something surely won't go as planned. We keep that in mind and set out to find snags and fix them.

Take payroll software, for example. When our outsourcing company sends us updates, we pay closer attention than usual to our

processes. After all, what works fine in another environment might not be glitch-free here.

No matter how much we'd trust a third-party, we'd still be vigilant with software updates.

This find-it-and-fix-it mindset helps us ensure that we all keep moving forward with our mission.

*(Rebecca Steele, payroll administrator, OTC Occupational Training Center, Burlington Township, NJ)*

## Data breaches: How updates to state regs impact Payroll's responsibilities

### ■ NOTIFICATION REQUIREMENTS FOR COMPROMISED WORKER INFO

New data breach laws being passed across the country give Payroll even more reason to make sure employees' confidential personnel data stays secure.

Texas is the latest state to strengthen its data breach regs, and more states will likely follow suit.

### Reporting protocol

Effective Sept. 1, 2021, HB 3746 updates Texas' existing data breach laws, which required businesses to notify both affected individuals and the state attorney general about any data breaches that occur.

Now, Texas companies that experience a data breach must include the number of affected state residents whom they notified about the breach by mail or other type of direct communication in their notification to the attorney general.

The Texas attorney general must be notified if data breaches impact 250 residents or more. The official

notification also needs to include other details about the breach, such as a description of how it happened, the steps the company took to solve the problem and info about any pending legal investigations.

In addition, the attorney general will now maintain a public list on its website of any data breach notifications received from employers.

States that currently have similar requirements include California, Maine and Washington. California's law requires people to be notified of breaches, but the attorney general only needs notice of breaches affecting 500 workers or more. Washington's law is similar. Maine maintains an online database of data breach notifications that impact state residents.

Each state has an online form businesses can complete if they need to report data breaches.

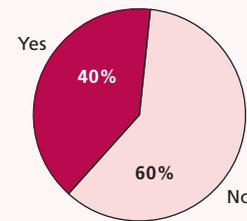
Being cautious with employee info can help Payroll pros avoid the hassle of having to report data breaches to the state or other entities.

Following critical cybersecurity measures is key to protecting workers'

## WHAT PAYROLL PROS TOLD US

### Worker responsibilities & pay

Did you have to take on additional responsibilities following COVID-19 related job losses at your organization?



Source: ADP People at Work 2021: A Global Workforce View

As you may have noticed, these increased responsibilities often come with higher pay, with 57% of U.S. workers reporting they received raises or bonuses this past year.

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

data. Avoid opening any unfamiliar emails, keep passwords to internal systems and payroll software secure and hard to guess, and make sure your computer is regularly updated and has current antivirus software running.

**More info:** [bit.ly/txbreach632](https://bit.ly/txbreach632), [bit.ly/cabreach632](https://bit.ly/cabreach632), [bit.ly/wabreach632](https://bit.ly/wabreach632), [bit.ly/me632](https://bit.ly/me632)

## SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No. The court didn't dismiss the claims involving the employer-employee contract.

Under Massachusetts law, the employee would have to prove – among other things – that the employer breached a contract, resulting in his harm. Not receiving one's full commission payment could be considered harm.

The employer contended that it paid the full amount of the commission: a portion in his paycheck and another portion in the form of a retirement plan contribution.

From the employee's point of view, the 401(k) contribution had been deducted from his commission, meaning he didn't receive as much money as he should have according to the contract.

The contract didn't contain clear-cut language about employer contributions to retirement accounts and how they did or didn't fit in with commissions.

If indeed the company changed the terms of the contract, that should have been done in writing with the employee's signature.

Based on the information presented, the court couldn't say for sure that the employee had received full commission as required by the contract.

### Analysis: Finding the formula facts

It's worth clarifying the formulas you're supposed to use for commission payments.

State laws vary regarding contracts, but it's likely you'll find that:

- even if you're paying the right *amount*, the *method* matters, too, and
- any changes to contracts should be made in writing and should include the employee's signature

**Cite:** *Trindade v. Grove Services Inc.*, 19-cv-10717-ADB, U.S. D.C., D. Massachusetts, 9/16/21.

Note: Dramatized for effect.

## Industry news you can use

### ■ ACA compliance: What's next if IRS sends a church Letter 226-J

A **church** that is an applicable large employer under the Affordable Care Act (ACA) may receive Letter 226-J, which contains a preliminary calculation of the employer shared responsibility provision (ESRP).

In a Chief Counsel Memorandum (AM-2021-003), the IRS explained that it considers the 226-J to be a routine request, not a more serious tax inquiry.

More good news: About 90% of churches that receive Letter 226-J 1) clarify or correct info previously reported on Forms 1094-C and 1095-C, and 2) aren't assessed the ESRP.

More info: [bit.ly/church632](http://bit.ly/church632)

### ■ Prevailing wage rates in Missouri for road construction projects

The Missouri Dept. of Labor has released General Wage Order #65. In it, you'll find prevailing wage rates for Missouri State Highway and Transportation Commission

construction projects.

Those rates, or higher rates, must be paid to employees based on occupational titles including: **operating engineer, carpenter** and **traffic control service driver**.

More info: [bit.ly/roads632](http://bit.ly/roads632)

### ■ OFCCP says 'yes, no, yes' to using EEO-1 Component 2 data

The Dept. of Labor's Office of Federal Contract Compliance Programs (OFCCP) is flip-flopping on whether it intends to request, accept, or use EEO-1 Component 2 data submitted by **federal contractors** and **federal subcontractors**.

In 2014, OFCCP planned to collect the data. In 2019, the agency didn't think the data would be useful because it's aggregated. But then again, said the OFCCP in a *Federal Register* Notice on a Sept. 2, 2021, the data could be used to investigate potential pay discrimination.

More info: [bit.ly/federal632](http://bit.ly/federal632)

## 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:*

### What should we watch for with cloud-based payroll software?

**Q:** We've been thinking of switching to a cloud-based payroll system. What should we watch for when looking at vendors?

**A:** One of the top considerations when switching to a cloud-based payroll system is security. Make sure you know exactly how the vendor plans to store your payroll data and keep it safe. It's also important to consider the top features you need. Do you just want a system that handles payroll or do you want

a full-service software suite that also has HR, onboarding and employee self-service features? Because cloud payroll software relies on Internet connectivity, you'll also need a plan in case there's an outage while you're processing payroll. System updates are also typically automatic with cloud software, so you may want to ask potential vendors if they have an update schedule handy. In addition, most vendors bill companies on a monthly or yearly basis, so you'll have to weigh those costs against any potential savings.

More info: [bit.ly/cloudpay632](http://bit.ly/cloudpay632)

Send questions to [jweiss@HRMorning.com](mailto: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, instructions and other publications contains seven updates you may find useful in your job.

- Publication 5525, *Exempt Organizations Technical Guide, TG 3-20 Introduction to Private Foundations & Special Rules Under IRC 508*. Revised September 2021. Posted 9/9/21.
- Instructions 941-X, *Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund*. Revised July 2021. Posted 9/14/21.
- Form 941-X, *Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund*. Revised July 2021. Posted 9/14/21.
- Instructions 941-X (PR), *Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund (Puerto Rico Version)*. Revised July 2021. Posted 9/14/21.
- Form 941-X (PR), *Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund (Puerto Rico Version)*. Revised July 2021. Posted 9/14/21.
- Form 8885, *Health Coverage Tax Credit*. Revised 2021. Posted 9/14/21.
- Notice 931, *Deposit Requirements for Employment Taxes*. Revised September 2021. Posted 9/16/21.

More info: Find links by going to [www.keeptodateonpayroll.com/forms-and-publications-632](http://www.keeptodateonpayroll.com/forms-and-publications-632)

### 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!*

### CALIFORNIA

- **FAMILY LEAVE:** If AB 1033 is signed by the governor, the California Family Rights Act (CFRA) will be expanded so that an employee would be able to take leave to care for a parent-in-law. The definition of parent already includes biological, foster or adoptive parent; stepparent; legal guardian; and other person who stood *in loco parentis* to the employee when the employee was a child. Employees can take up to 12 weeks of unpaid leave to care for parents under the CFRA. **More info:** [bit.ly/ca-632](http://bit.ly/ca-632)

### COLORADO

- **OVERTIME:** The Dept. of Labor and Employment is getting ready to update its Colorado Overtime & Minimum Pay Standards (COMPS) Order, including making annual adjustments to the overtime exemption salary figures. The deadline for making comments will be Nov. 3, 2021. **More info:** [bit.ly/colorado-632](http://bit.ly/colorado-632)

### MINNESOTA

- **PTO PAYOUT:** Although an employee handbook may have a general disclaimer stating it's not a contract, a company may still be on the hook for its paid time off (PTO) policy contained within the handbook. That's the upshot of *Hall v. City of Plainview*, a 2021 Minnesota Supreme Court decision. An employee whose employment had been terminated sued, seeking payment for 1,778.73 hours of accrued, unused PTO. That amount was reflected on his final paystub. The case was sent back to a lower court so that more information

could be gathered – it was unclear whether the handbook disclaimer applied to the PTO policy. **More info:** [bit.ly/mn-632](http://bit.ly/mn-632)

### NEW HAMPSHIRE

- **PAID LEAVE:** New Hampshire has established the Granite State Paid Family Leave Plan, with coverage starting Jan. 1, 2023. Participation is voluntary. Employers can choose to provide Family and Medical Leave Insurance at no cost to employees or by asking them to make contributions. Eligible employees can receive 60% of their average weekly wage for six weeks of leave per year. **More info:** [bit.ly/nh-632](http://bit.ly/nh-632)

### OREGON

- **PAID LEAVE:** The state will get its new family and medical leave insurance program going later than originally planned in HB 2005. A newer bill, HB 3398, delays the date employers will begin making program contributions until Jan. 1, 2023 (it had been Jan. 1, 2022). **More info:** [bit.ly/oregon-632](http://bit.ly/oregon-632)

### PENNSYLVANIA

- **TAX RELIEF:** Due to a disaster declaration following Hurricane Ida, the IRS announced tax relief for affected businesses in Bucks, Chester, Delaware, Montgomery, Philadelphia and York counties. Certain deadlines falling on or after Aug. 31, 2021, have been extended to Jan. 3, 2022. That includes quarterly payroll tax returns that would otherwise be due Nov. 1, 2021. **More info:** [bit.ly/pa-632](http://bit.ly/pa-632)

### TEXAS

- **PAID SICK LEAVE:** The Dallas paid sick leave ordinance is preempted by the Texas Minimum Wage Act, a federal district court said. A permanent injunction is in place now. Prior to this decision, the Third and Fourth Courts

of Appeal in Texas had already weighed in regarding Austin and San Antonio, respectively. All three cities had similar provisions: one hour of paid sick leave for every 30 hours worked. None of the three ordinances is in effect. **More info:** [bit.ly/tx-632](http://bit.ly/tx-632)

### VIRGINIA

- **OVERTIME:** The Virginia Overtime Wage Act, which took effect July 1, 2021, was amended the next month when the Virginia General Assembly enacted a budget amendment. As of Aug. 10, 2021, changes were made to some of the overtime law's definitions. The changes don't apply retroactively to the period from July 1, 2021, through Aug. 9, 2021. The Dept. of Labor and Industry has updated its FAQs, with 20 questions in all now. **More info:** [bit.ly/va-632](http://bit.ly/va-632)

## THE LIGHTER SIDE

When you find a career you love, you just don't want to quit – even if you're 101.

That's true of Virginia Oliver, who began trapping lobsters off the coast of Maine when she was only eight years old.

In those days, if you headed to the dock to purchase some lobsters, it'd cost you 28 cents per pound. That was way back before the Fair Labor Standards Act had become law.

Now at 101, Oliver plans to keep lobstering as long as she can. The Associated Press reports she gets up before dawn to load traps and head out on the water with her son Max, who's a mere 78.

Once a week, she even enjoys a fringe benefit of sorts: lobster for dinner.

**Cite:** [bit.ly/career632](http://bit.ly/career632)