

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™

November 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.

■ COMBINED REPORTING FOR SUCCESSOR ENTITY

Reg: Revenue Procedure 99-50, *Combined Information Reporting*.

Background: In certain situations following a merger or acquisition, a successor business entity may elect combined reporting for some Forms 1042-S and all forms in series 1098, 1099, and 5498. The successor must file a statement with the IRS regarding which forms will be combined.

Comments due: 12/13/21.

Cite: *Federal Register*, 10/14/21.

■ NEED MORE TIME TO MAKE PAYMENT OF TAX DUE?

Reg: Form 1127, *Application for Extension of Time for Payment of Tax Due to Undue Hardship*.

Background: Used to request an extension of time for payment of tax shown or required to be shown on a return.

Comments due: 12/13/21.

Cite: *Federal Register*, 10/14/21.

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

5 changes for health insurance open enrollment this year-end

■ Preparing for payroll deductions in 2022

No matter what choices employees make during open enrollment, one thing's for sure: You'll have your work cut out for you to get the proper deductions set up before the first payroll of 2022.

Take a moment now to make sure you're up to speed on the latest law and reg changes so you don't lose time later.

1. FSA carryover limit

All or part of the unused amounts remaining in a health or dependent care flexible spending arrangement (FSA) can be carried over to 2022.

That's important for employees to know as they consider how much money to set aside next year.

There's a caveat: You must amend your cafeteria plan to allow for the carryover of the unused amounts remaining in an FSA, IRS said in Notice 2021-15.

Otherwise, the maximum amount an employee can carryover from 2021 to 2022 is \$550.

2. Premium discounts, surcharges

A group health plan can offer a premium discount or add a premium surcharge depending on whether a participant has received the COVID-19 vaccine.

That's what the Dept. of Labor said in guidance on Oct. 4, 2021. But the

(Please see Open enrollment ... on Page 2)

Get ready for next year's legal, banking holidays

It's time to look ahead to 2022 and see how the holidays will affect you and your team.

That way, you can ensure you'll have coverage for Payroll's responsibilities, such as making tax deposits.

Plus, if you'll need to adjust any paydays due to bank closures, you can get those dates locked in now.

12 holidays to note in 2022

Here's what's coming your way next year:

- Fri., Dec. 31: Observation of New Year's Day (LB)
- Mon., Jan. 17: MLK Jr. Day (LB)

- Mon., Feb. 21: Presidents' Day (LB)
- Fri., April 15: Observation of DC Emancipation Day (L)
- Mon., May 30: Memorial Day (LB)
- Mon., June 20: Observation of Juneteenth (LB)
- Mon., July 4: Independence Day (LB)
- Mon., Sept. 5: Labor Day (LB)
- Mon., Oct. 10: Columbus Day (LB)
- Fri., Nov. 11: Veterans' Day (LB)
- Thurs., Nov. 24: Thanksgiving (LB)
- Mon., Dec. 26: Observation of Christmas Day (LB)

More info: www.irs.gov/forms-pubs/about-publication-509

Open enrollment ...

(continued from Page 1)

guidelines for activity-based wellness programs must be met.

Giving employees a heads-up about how their premiums will decrease or increase in 2022 should prevent an influx of questions later.

3. Extra time for COBRA

As usual, employees who have elected COBRA continuation coverage should be given open enrollment info and be permitted to make changes.

But this year-end the process may feel more up in the air to you.

That's because the COVID-19 "outbreak period" hasn't officially ended yet. Therefore, employees have more time than usual to elect COBRA continuation coverage and start paying their premiums.

As IRS recently clarified in Notice 2021-58, individuals who wait to make a COBRA election may not have more than one year of extra time

for the COBRA election and initial COBRA payment.

4. Electronic medical child support

If you receive a National Medical Support Notice (NMSM), you may need to start withholding from the employee's wages for medical child support ASAP or when open enrollment comes around – follow the order accordingly.

Caution: Does your health plan offer dependent-only coverage? If not,

You may need to start withholding ASAP.

check on whether the employee for whom you've received the NMSN signs up for health insurance coverage during open enrollment so the child, or children, can receive coverage, too.

Also, be aware of a new development with the NMSN: a push toward electronic communication on the part of states and employers.

Specs have just been released, so expect a mix of paper and electronic medical child support orders for now.

5. State disability insurance info

While your company may choose to offer short-term disability insurance during open enrollment, in five states the insurance is required.

Those states are California, Hawaii, New Jersey, New York and Rhode Island. Here are some recently released updates for 2022:

In **California**, the short-term disability withholding rate will be 1.1%, and the annual taxable wage limit per employee will be \$145,600.

In **New Jersey**, for temporary disability insurance, the employee contribution rate will be 0.14%. The taxable wage base for employees and employers will be \$151,900 and \$39,800, respectively.

We'll keep you posted.

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.

■ SOFTWARE HAS LIMITATIONS: IS EMPLOYER RESPONSIBLE?

"That software doesn't give you a way to file an amended return electronically," Payroll Manager Pat Gray confirmed for Donna Rae, her friend who worked in another company's Finance department.

"I thought I'd make sure since you use the same software," said Donna. "I already sent a paper copy of the amended form to IRS – that went fine. Now, I'll probably use paper with the state, too. It's frustrating, though, because I filed the original return electronically."

"How about using the state's online filing option?" Pat asked.

"No, I just need to get this amended form sent in. It's been almost three years since we filed our original corporate income tax return. Now, turns out we owed only \$1,180,111 – so that's a \$32,627 refund from the state," said Donna.

What the laws and regs say

Pat hesitated. "But I think I recall reading somewhere recently about a new state law requiring us to file amended returns electronically."

"That's not the info I have," said Donna. "I'm looking at the state's regs here from their website."

"Anyway," added Donna, "it'd only be a \$25 penalty for not filing the amended return electronically."

"Or," noted Pat, "sometimes the penalty can be 1% of the tax due."

Later, Donna's company received a \$11,801.11 penalty for failure to file electronically. It tried to get the penalty waived. Did it succeed?

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

From:  **KEEP UP TO DATE** 
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Unexpected way employees exceed 403(b) plan annual contribution limit

Ensuring that employees don't exceed the contribution limits for retirement plans may involve extra steps that the IRS wants to make sure you're taking.

Each year, the IRS sets the total amount that can be contributed to defined contribution plans. For 2021, it's the lesser of:

- \$58,000, or
- 100% of the employee's annual compensation.

Here's what catches some employers by surprise: Given that 403(b) plans are annuity contracts, contributions are aggregated differently than they are for other defined contribution retirement plans that an organization may offer, such as 401(k) plans.

So said the IRS in *Issue Snapshot – 403(b) Plan*.

In fact, 403(b) plans are aggregated with other defined contribution plans over which the employee maintains control, the IRS explained.

That may become pertinent if your organization allows employees to take on outside jobs or is silent on whether that's permitted.

That's common among healthcare

doctors or university professors who, in addition to being employees, run their own business.

Problem is, any excess annual addition would be attributed to the 403(b) annuity contract that your organization provides.

Example: An employee elects to defer \$19,500 – the 403(b) salary deferral limit for 2021. Your organization makes a non-elective employer contribution of \$35,000 to the 403(b) plan on behalf of the employee. So far, so good.

The employee controls her own separate business which sponsors a defined contribution plan to which she contributes \$24,000. The combined amount of \$78,500 would exceed the contribution limit of \$58,000.

What you can do

To avoid the costly effects of exceeding contribution limits, the IRS says you should:

1. Inform employees about the aggregation rule.
2. Consider what info employees must provide to your organization regarding outside employment and plan contributions.

More info: bit.ly/retirement634

Form 1095-C and draft instructions released by IRS

You'll have a tighter deadline this year-end for getting Forms 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, into employees' hands.

According to draft instructions, the deadline will be Jan. 31, 2022.

Since 2016, the IRS has been automatically extending the deadline by 30 days.

That automatic extension is gone for forms due in 2022.

You can continue to get a 30-day extensions. But you'll need to file Form 8809.

That must be submitted on or before the end of January.

Codes in use, some reserved

The IRS released a draft of the 1095-C instructions on Sept. 22, 2021, followed by the final version of the form itself on Oct. 27, 2021.

They both provide a list of codes, including those added for individual coverage health reimbursement arrangements: 1T and 1U.

Codes 1V-1Z remain reserved for future use.

More info: bit.ly/aca634

NEWS YOU CAN USE

■ DIRECT DEPOSIT: REASON FOR WRONG ROUTING NUMBERS

Of course, you'll run into problems on payday if an employee signs up for direct deposit but gives you the wrong routing or account number. But what if the employee has the info right and the problem lies with your company's bank? That's happening.

Some originating banks aren't updating their routing number validation tables frequently enough – it should be done at least monthly. That's necessary because a new or established receiving bank may get a new or additional routing number, explains Nacha.

So, if you run into a problem with direct deposit going through, you may want to double-check that your company's bank has an up-to-date directory of routing numbers.

More info: bit.ly/routing634

■ 'HAVE IT IN WRITING' FROM THE IRS? HERE'S GOOD NEWS

A company that's relied on IRS FAQs in the past or plans to do so in the future will be relieved by a recent change the IRS announced.

If an FAQ turns out to not be a correct statement of the law as applied to the particular facts at your company, you may have a "reasonable cause" defense against any accuracy-related penalties. You'll need to show you relied on the FAQ and the reliance was reasonable.

More info: bit.ly/reliance634

■ CHILD SUPPORT PORTAL EXPANDS COMMUNICATION

The Office of Child Support Enforcement has enhanced its Child Support Portal. For example, employers can use the portal to respond to an income withholding order to say that an individual no longer or never worked for you.

More info: ocsp.acf.hhs.gov/csp/home/employer

TEST YOUR KNOWLEDGE

■ Keys to testing your W-2 files with AccuWage Online

Before sending your W-2 files over to the SSA, you can test them to make sure they're error-free and formatted correctly by using the agency's AccuWage Online system.

It's important to know how the process works so you can submit accurate files to SSA. Answer *True* or *False* to the following to check your knowledge of the process.

1. A new update to the AccuWage Online system now allows you to test multiple wage files at the same time.
2. To make the verification process go faster, you can run multiple sessions of AccuWage Online using different Internet browsers.
3. If your file contains "Alert and Informational" issues, you can still submit it to SSA.
4. AccuWage Online can find a maximum of 500 errors in a file before it stops the testing process.

ANSWERS

Answers to the quiz:

1. *False.* AccuWage Online still only allows users to test one file at a time. A second file can't be submitted until after the first one's been tested and validated.
2. *False.* No matter how many browsers you have open, you're still restricted to verifying one file at a time, and the process won't go any faster. SSA doesn't recommend that users run multiple sessions of AccuWage Online with different files at the same time.
3. *True.* These errors won't stop your file from being processed, but it's a good idea to review and correct them before submission anyway.
4. *True.* After you've corrected the existing issues, you can retest the file to see if there are more.

More info: bit.ly/accuwage634

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.

Delivery drivers owed mileage reimbursement

Employer: Clemson Subs LLC and Anderson Subs LLC, dba Jimmy John's, Clemson and Anderson, SC.

Business: Sandwich restaurant chain.

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

Type of violation: Employees who delivered food weren't reimbursed for their mileage expenses, which caused their pay to fall below the federal minimum wage.

Penalty: The Jimmy John's franchises paid \$27,209 in back wages to 74 workers.

Government office: Dept. of Labor, Wage and Hour Division, Columbia, SC, office.

Bottle shop cracked open wallet for almost \$520K

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.

Type of violation: Servers and bartenders were only paid in tips and didn't receive cash wages. Various workers weren't paid for attending quarterly staff cleaning meetings, and employees didn't receive overtime pay as required. Also, workers' payroll records were incomplete.

Penalty: Bottle Bar East had to pay close to \$520,000 in back wages, damages and civil penalties.

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

Contract workers weren't paid correctly for project

Employer: Sawyer Services, Chesterfield, MI.

Business: Electrical subcontractor.

Laws broken: Davis-Bacon and Related Acts, Contract Work Hours and Safety Standards Act (CWHSSA).

Type of violation: Electricians, laborers and apprentices were paid less than the required prevailing wages and benefits for work on a renovation project. The employer also didn't follow overtime or recordkeeping regs of the CWHSSA.

Penalty: Eight workers received \$94,000 in back wages.

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

OT issues put firm on wrong side of the law

Employer: Slocumb Law Firm LLC, Auburn, AL.

Business: Personal injury law firm.

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

Type of violation: Employees didn't receive overtime when they worked more than 40 hours during a workweek. Slocumb Law Firm also didn't keep accurate records of hours worked for salaried employees.

Penalty: The law firm paid \$26,496 in back wages and damages to 42 workers.

Government office: Dept. of Labor, Wage and Hour Division, Birmingham, AL, 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 Prepared to report FFCRA wages in Box 14 of Forms W-2

After the tax credit for employers offering paid leaves under the Families First Coronavirus Response Act (FFCRA) expired, my responsibilities continued on with quarterly reporting and preparing W-2s at year-end.

The law required employers to offer leave in 2020. Then with the voluntary extension for the first three quarters of 2021, we still had eligible people taking time off for COVID-related reasons.

Thankfully, we'd followed the

advice of our accounting software vendor early on and created specific pay codes and general ledger accounts for FFCRA leave. The focus was to have a complete audit trail.

Running batches

In our case, we used CVSICK, a pay code for COVID paid sick leave. We also had separate codes for family care (CVFCare) and FMLA extended leave (CVFMLA) but didn't have a reason to use them. All COVID-related

time was entered in a batch labeled COVID-19 and processed separately from our regular weekly batches.

The special COVID batch and pay codes helped us with quarterly reporting in order to take the correct tax credit. In addition, we're prepared to once again report wages paid under FFCRA in Box 14 of the Forms W-2.

(Janice Cash, payroll administrator, Powell Construction Co. Inc., Johnson City, TN)

2 Direct deposit experiences helped during pandemic

When something's working well in Payroll, it makes sense to see if we can expand the process into other functions of our organization.

That's what we learned recently.

And the catalyst for our expansion effort was the pandemic.

We'd paid employees using direct deposit for years. So when we, like many other organizations, suddenly found ourselves working remotely, we didn't need a Plan B for getting paychecks to people – they still received their pay as usual thanks to ACH. But

sending and receiving payments from vendors was a different story.

4 steps we took

That's when we launched our "make the switch to ACH" effort with vendors and clients. That meant:

- getting the entire team up to speed
- sending an informational mailing to vendors and clients (we used colored paper to grab their attention)
- flagging the effort during our interactions, personally encouraging

clients to switch to ACH, and

- providing info with all invoices.

Before the pandemic, our organization paid 10% of its vendors via ACH. Now, we're at 95%.

(Nicole Cornish, CEO, Subject Matter, adapted from "An ACH Success Story: Creative Advocacy Firm Encourages Making the Switch to ACH" on Nacha.org)

**REAL
PROBLEMS
REAL
SOLUTIONS**

3 I took on responsibility when we switched to an HRIS system

We'd decided to modernize our technology by integrating our time and attendance, payroll and 401(k) functions into one system.

We chose an HRIS provider we liked and started down the path of change with certain expectations in mind about what we'd encounter.

As we continued along, we ran into some surprises.

We thought that we'd be handed established procedures: Do this first, this second, and so on.

But that's not what happened.

Turned out, we had to ask a lot of questions and monitor the project's progress ourselves. So we did.

Sorting through the pay codes

For example, I noticed differences between their pay codes and what we'd been using in our payroll system. Sure, every employer pays its employees "regular hours," but codes vary: "REG," "PC1," etc.

We sorted out how payments would

be coded with the new system. Plus, we discovered we couldn't map the codes directly over. The good news was the provider would take care of that task.

Bottom line: Payroll providers know their products well – that doesn't mean they know each company well. I took on the responsibility of managing the tech change to ensure its success.

(From an HR and payroll manager in California, name withheld by request)

More employees than ever before using direct deposit: What's next?

■ WORKERS HAVE HIGH CONFIDENCE PAY WILL BE ON TIME & ACCURATE

Encouraging news for Payroll! There are fewer direct deposit holdouts than ever before.

That news comes from the latest Getting Paid in America survey from the American Payroll Association.

Almost 96% of those surveyed receive their pay via direct deposit, with the remainder being split by various methods, such as paper checks, paycards and online payments systems like PayPal and Venmo.

Most workers have been receiving direct deposit for some time, but a handful of people (6%) specifically switched to direct deposit and other electronic wage payment methods due to the COVID-19 pandemic.

Not surprisingly, because a vast majority of employees are using direct deposit, they also have no issues with the timing of their pay: 95% said that they're always paid on time.

They're also pretty certain that Payroll gets it right every pay period. Over two-thirds (67%) of those

surveyed said they're very certain the withholding and the net amount of their checks are correct each payday, and nearly 24% said they were somewhat certain this was true.

Employees have become more proactive about managing their withholding since the IRS released the redesigned Form W-4.

Many saw increased tax bills when this happened. Likely as a result, close to a third of survey participants completed a new W-4 in 2021 to adjust their withholding to have more income tax taken out of their checks.

A much smaller number, 13%, completed new W-4s this past year to have less income tax withheld from their pay.

All these developments are positive for Payroll, since they make it easier to accurately pay workers with less hassle and administrative work.

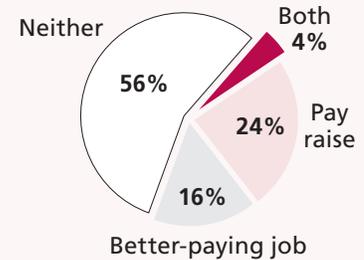
Keep momentum going

Even though these figures are encouraging, there's always more Payroll can do to get employees on board with direct deposit and

WHAT PAYROLL PROS TOLD US

Pandemic pay status

In the past 12 months, have you gotten a pay raise at your current job, gotten a new, better-paying job, neither or both?



Source: Bankrate survey, Sept. 28 - Oct. 3, 2021

Because the job market is so competitive right now, employees may interview for more highly paid positions and ask their supervisors to match that salary. Be prepared.

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

other paperless forms of pay. Nacha maintains a website, *directdeposit.org*, with a wealth of resources and info about direct deposit you can pass along to that handful of people who may still be uneasy about signing up.

It explains how the service works and dispels common myths.

More info: bit.ly/deposit634

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, an administrative law judge didn't waive the penalty for failure to file the amended corporate tax return electronically.

The employer had located regs on the Alaska Dept. of Revenue's website stating that if electronic filing wasn't required on the federal level, it wasn't necessary on the state level, either. Problem was, the regs hadn't caught up with a new state law, which made electronic filing a requirement.

So, although the employer had filed IRS Form 1120X on paper, that was no longer an option with the state form – regardless of whether the Dept. of Revenue had updated its regs.

The fact that the company's accounting software had limitations didn't hold water with the administrative law judge, either.

After all, the company had other electronic filing

options available – namely, using the Dept. of Revenue's online web-based service.

The company couldn't even catch a break with the penalty amount. It'd hoped the penalty would be a mere \$25. But the administrative law judge said the penalty wasn't limited to the tax due under the amended return. Rather, the company would have to pay \$11,801.11, which was 1% of the tax due that year. That penalty put a damper on the \$32,627 refund.

Analysis: Complying with electronic filing rules

If your software doesn't allow you to file returns and/or amended returns electronically, check your state revenue department's website for an online filing option.

Going that route be a little more cumbersome, but it's worthwhile to help keep your company in compliance and avoid potentially costly penalties.

Cite: *In re Costco Wholesale Corp. and Subsidiaries*, OAH No. 20-0418-TAX, Alaska Office of Administrative Hearings, 9/29/20. Note: Dramatized for effect.

Industry news you can use

■ These exempt employees in California get a pay raise

A 2022 increase in base pay for certain employees who are exempt from overtime has been released by the California Dept. of Industrial Relations.

Computer software employees must be paid at least:

- \$50 per hour
- \$8,679.16 on a monthly basis, and
- \$104,149.81 on an annual basis.

Licensed physicians and surgeons must receive a minimum hourly rate of \$91.07.

More info: bit.ly/computer634, bit.ly/physician634

■ Construction contractors, here's a heads-up about unpaid wages

In New York, a contractor that makes or takes a construction contract will be liable if its subcontractors owe wages or benefits to any employees working on the project.

That's because SB 2766C amended

the state's labor and business law, with the changes taking effect in 2022.

More info: bit.ly/construction634

■ Was employee who earned \$963 per day entitled to OT?

The Fifth Circuit Court of Appeals recently heard a Fair Labor Standards Act (FLSA) case involving an employee in the oil and gas industry who earned \$963 per day.

Although he was a highly compensated executive employee, earning over \$200,000 per year, he wasn't exempt from overtime, the court ruled in *Hewitt v. Helix Energy Solutions Group*.

The rationale? He wasn't paid on a salary basis. He earned a fixed daily rate, but his employer failed to:

- guarantee him a minimum weekly salary that didn't vary based on hours, days or shifts worked, and
- ensure a reasonable relationship between the guaranteed amount and the amount actually earned.

More info: bit.ly/salarybasis634

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 keep each password that I use for work secure?

Q: Between all the programs and systems we use in the office, I have a lot of different passwords to manage, and I want to make sure they stay secure. Do you have any suggestions to help?

A: One of the best ways to check that all your passwords are hard to crack while still ensuring they're easily accessible is to use an online password manager. Services such as LastPass and Dashlane can automatically create secure, lengthy passwords

for multiple websites, programs and systems. Then, they store each password in their encrypted database and automatically plug them in whenever you need to log in. Password managers check for issues such as reused passwords and passwords that can be easily guessed by hackers so they can be corrected right away. They also make it simple for users to change passwords regularly, which helps boost account security. IT can recommend a good password manager and help you get started.

More info: lastpass.com, dashlane.com

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 contains updates of Payroll-related publications.

- Form 1042-T, *Annual Summary and Transmittal of Forms 1042-S*. Revised 2021. Posted 10/4/21.
- Publication 4164, *Modernized e-File (MeF) Guide for Software Developers and Transmitters Processing Year 2022*. Revised October 2021. Posted 10/6/21.
- Form 4419, *Revise Existing Transmitter Control Code (TCC) for Filing Information Returns Electronically (FIRE)*. Revised September 2021. Posted 10/6/21.
- Publication 4485, *Guide for the Certification of State FUTA Credits*. Revised October 2021. Posted 10/6/21.
- Publication 5164, *Test Package for Electronic Filers of Affordable Care Act (ACA) Information Returns (AIR) Processing Year 2022*. Revised October 2021. Posted 10/14/21.
- Schedule E (Form 990), *Schools*. Revised 2021. Posted 10/15/21.
- Instructions for Form 5498-ESA, *Coverdell ESA Contribution Information*. Revised 2022. Posted 10/18/21.
- Instructions for Form 8922, *Third-Party Sick Pay Recap*. Revised 2021. Posted 10/19/21

More info: Find links by going to www.keeptodateonpayroll.com/forms-and-publications-634

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

- **HEALTHCARE EXPENDITURES:** Employers that have to comply with the San Francisco Health Care Security Ordinance will see increases for 2022. Large employers must make healthcare expenditures totaling at least \$3.30 per hour. For medium-sized employers, the rate is \$2.20 per hour. **More info:** bit.ly/sanfrancisco634

COLORADO

- **VACATION PAY:** Modifications to the state's Wage Protection Rule were proposed on Sept. 29, 2021. Although the state supreme court recently clarified, in *Nieto v. Clark's Market Inc.*, that all vacation pay is non-forfeitable and must be paid upon separation, no rule defines vacation pay, the Colorado Dept. of Labor and Employment explained in its proposed rule change. That creates confusion over terms like "annual leave," "paid time off" and "personal leave." Under the proposed rule change, leave that's conditional – such as bereavement or holiday pay – *wouldn't* be payable upon separation. What *would* be payable upon separation? Any earned, determinable paid leave that's usable at the employee's discretion, whether or not the term "vacation pay" is used. We'll keep you posted on whether the rule is finalized. **More info:** bit.ly/co634

CONNECTICUT

- **SALARIES:** Public Act 21-30, which took effect Oct. 1, 2021, says employers must disclose salary ranges for vacant positions and provide comparable pay for comparable work. The Connecticut

Dept. of Labor (DOL) has released guidance on the law. For example, discretionary pay doesn't constitute wages, the DOL said. **More info:** bit.ly/connecticut634

MISSISSIPPI

- **TAX RELIEF:** Employers in parts of Mississippi affected by Hurricane Ida will get tax relief from the IRS. You'll have until Jan. 3, 2022, to file quarterly payroll tax returns normally due Nov. 1, 2021, if you're in the following counties: Amite, Claiborne, Copiah, Covington, Franklin, Georgia, Hancock, Harrison, Jackson, Jefferson, Jefferson Davis, Lawrence, Lincoln, Pearl River, Pike, Simpson, Walthall, Wayne and Wilkinson. **More info:** bit.ly/mississippi634

NEW JERSEY

- **INDEPENDENT CONTRACTORS:** The state is cracking down on the misclassification of employees as independent contractors. One example? The Office of Strategic Enforcement and Compliance will be created. It'll be part of the Dept. of Labor and Workforce Development, overseeing strategic enforcement of state wage, benefit and tax laws. The office will track payroll projects in order to identify and eliminate misclassification. **More info:** bit.ly/nj634

PENNSYLVANIA

- **PAID SICK LEAVE:** If you're located in Allegheny County, get ready to comply with a new paid sick leave ordinance. Employers with 26 or more employees must provide paid sick leave – one hour accrued for every 35 hours worked, up to 40 hours per year. **More info:** bit.ly/pennsylvania634

WASHINGTON

- **EXEMPT EMPLOYEES:** The salary threshold for who's exempt from overtime in Washington will

increase on Jan. 1, 2022, the Dept. of Labor and Industries announced. The threshold will be 1.75 times the 2022 minimum wage rate for both small and large employers. So, that'll be \$1,014.30 per week, which comes out to \$52,743.60 annually. **More info:** bit.ly/exempt634

- **MINIMUM WAGE:** For 2022, the state minimum wage will increase to \$14.49 per hour. In SeaTac, the minimum hourly rate for hospitality and transportation employees will be \$17.53. In Seattle, the minimum hourly rate for large employers will be \$17.27, while for small employers it'll be \$15.75 (if they pay at least \$1.52 per hour toward employees' medical benefits and/or if employees make at least \$1.52 per hour in tips) or \$17.27 (if those conditions aren't met). **More info:** bit.ly/wahourlyrate634

THE LIGHTER SIDE

At this time of year, you may be thinking: "The holidays are coming up."

But have you heard of some of these lesser-known holidays that come around at year-end?

Maybe you'll opt to celebrate these, too:

- Nov. 2 – Deviled Eggs Day
- Nov. 4 – Common Sense Day
- Nov. 8 – Tongue Twister Day
- Nov. 14 – Pickle Day
- Nov. 15 – Clean Out the Fridge Day
- Dec. 2 – Fritters Day
- Dec. 3 – Make a Gift Day
- Dec. 10 – Lost and Found Day
- Dec. 22 – Date Nut Bread Day, and last but not least ...
- Dec. 27 – No Interruptions Day!

Cite: www.timeanddate.com/holidays/fun