

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™

March 1, 2022

## 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.

### ■ CLAIMING BUSINESS CREDIT FOR CHILD CARE FACILITIES

**Item:** Form 8882, *Credit for Employer-Provided Child Care Facilities and Services*.

**Background:** Employers use the form to claim the credit for qualified child care facility expenditures. It's part of the general business credit.

**Comments due:** 3/11/22.

**Cite:** *Federal Register*, 1/10/22.

### ■ MINIMUM ESSENTIAL HEALTH COVERAGE INFO

**Items:** Form 1095-B, *Health Coverage*; and Form 1094-B, *Transmittal of Health Coverage Information Returns*.

**Background:** Providers of minimum essential health coverage must provide the IRS with info as required by Sec. 6055 of the Internal Revenue Code.

**Comments due:** 3/14/22.

**Cite:** *Federal Register*, 1/11/22.

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

## Latest IRS changes for filing Form 941 and Schedule B

### ■ Look for new revision date of March 2022

Here we go again! IRS has set the wheels in motion for revisions of Form 941 and its instructions – plus, the Schedule B instructions. Payroll will need the updated info for first quarter 2022 filing.

According to the IRS drafts, the revision dates will be March 2022. The current revision dates are:

- Form 941 (June 2021) & instructions (December 2021), and
- Schedule B (January 2017) & instructions (December 2021).

### What's in the drafts

As for the draft 941 instructions, they state that some employers may be able to claim the COBRA premium assistance credit on the first quarter

2022 Form 941. That's the case even though the credit is limited to periods of coverage beginning on or after April 1, 2021, and ending on or before Sept. 30, 2021.

Here's why: Generally under COBRA, employers have 60 days to provide notice and individuals have 60 days from the date of the notice to elect continuation coverage. That could push some employees into 2022.

Employers should use Line 11e of Form 941 for the portion of the COBRA premium assistance credit that's nonrefundable and Line 13f of the 941 for the refundable portion.

Also, the draft 941 instructions

*(Please see IRS changes ... on Page 2)*

## Form W-4P deductions worksheet corrected by IRS

Do you have a copy of the 2022 Form W-4P that IRS made available from Jan. 3, 2022, to Jan. 30, 2022?

If so, don't use it.

Instead, use the current version which IRS posted on its website on Jan. 31, 2022, the IRS said during its February Payroll Industry Call.

### Current figures to use

The original release contained wrong figures on the last page of the 2022 Form W-P where employees can fill out 4(b) – Deductions Worksheet.

So, the old version has been

removed from the website, and the forms distribution team will destroy old printed copies, the IRS explained.

Line 4 of the worksheet now says:

- \$1,750 if you're single or head of household.
- \$1,400 if you're a qualifying widow(er) or you're married and one of you is under age 65.
- \$2,800 if you're married and both of you are age 65 or older.

Also, the IRS says to provide payees with an updated form if necessary. Otherwise, they may have less tax than expected withheld.

**More info:** [bit.ly/worksheet640](http://bit.ly/worksheet640)

# Sign-on bonuses: They may need to be included in overtime calculations

■ HOME HEALTH COMPANY OWED \$25K AFTER DOL INVESTIGATION

Getting employees in the door with sign-on bonuses can help a company through a hiring crunch.

But Payroll may want to remind others: A new employee's bonus may need to be included in the regular rate of pay for overtime purposes.

In fact, the Dept. of Labor (DOL) has been checking for compliance with this aspect of the Fair Labor Standards Act (FLSA).

Recent example: A home health services company in Pittsburgh had to pay \$12,469 in back wages and \$12,469 in liquidated damages.

What happened? The company, Three Rivers Home Care LLC, had offered sign-on bonuses to 26 home health aides.

There was a contingency, though. The new employees had to continue

working until the time of payment.

According to the DOL, that made the bonuses nondiscretionary.

### Don't rely on labels

Make sure everyone's clear on the terms of any sign-on bonuses your company may offer.

Will new hires be paid on their first payday after joining the company? Do they have to work a certain number of months before receiving the money? If they leave the company, will they need to repay their bonuses?

Even if your company has labeled a bonus "discretionary," overtime may nonetheless be due if the bonus is tied to hours worked or services provided.

**More info:** [www.dol.gov/agencies/whd/fact-sheets/56c-bonuses](http://www.dol.gov/agencies/whd/fact-sheets/56c-bonuses)

## IRS changes ...

(continued from Page 1)

explain how to handle qualified sick leave and qualified family leave wages paid in 2022 under two laws:

- Families First Coronavirus Response Act.** If an employee took leave after March 31, 2020, and before April 1, 2021, the Social Security tax rate is 6.2% for the employee portion only. Include these wages on Form 941 on lines 5a(i) and 5a(ii) as well as on lines 11b and 13c.
- American Rescue Plan Act.** If an employee took leave after March 31, 2021, and before October 1, 2021, the Social Security tax rate is 6.2% *each* for the employee and employer portion. Include these wages on Form 941 on Line 5(a) as well as on lines 11d and 13e.

Finally, the draft Schedule B instructions remind semiweekly schedule depositors to account for nonrefundable credits claimed on Form 941, lines: 11a, 11b, 11d and 11e.

**More info:** [www.irs.gov/form941](http://www.irs.gov/form941)

## 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.*

### ■ UNREMITTED CONTRIBUTIONS: HOW MUCH WAS OWED?

"Do we have the results from the second audit yet?" Payroll Manager Pat Gray asked HR Manager Cheryl Jones.

"Yes," sighed Cheryl, "it went worse than the first audit."

"Ugh, what happened?" asked Pat.

"First time around, they said we owed \$25,761.86 to the pension fund. This time, the tally was \$29,006.45," Cheryl added.

"So the number of hours we reported to the pension fund differed that much from what our payroll records indicated employees worked?" asked Pat.

### After 2 audits

"Yes, and that discrepancy wasn't the only problem the auditor found," explained Cheryl.

"Apparently, we didn't always remit the pension plan contributions fast enough," added Cheryl.

"Do we have 15 days?" asked Pat.

"No, the collective bargaining agreement gives us seven days from the due date," noted Cheryl.

"And," Cheryl went on, "remember when the hourly contribution rate increased and we didn't realize it until about two months later? They pointed that out, too."

The ERISA pension fund sued, saying the company should pay the unremitted money, plus thousands of dollars of other costs.

The company fought back to pay only the contributions owed.

Did it succeed?

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

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

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## 2 IRS notices on business deduction for employees' food or beverages

- INCREASED FROM 50% TO 100% THANKS TO RECENT LEGISLATION

Your company may profit from the temporary 100% business deduction for food or beverages from restaurants, and Payroll and A/P hold important information that can help with compliance.

By way of reminder, the Taxpayer Certainty and Disaster Relief Act of 2020 bumped up the business deduction from 50% to 100%.

The increase was only temporary, though, covering expenses paid or incurred in 2021 or 2022.

To shed light on the law, the IRS has released two notices.

### Offered as fringe benefit?

First, in Notice 2021-25, the IRS looked closely at the term “restaurant.” Reason: The law stipulated that food or beverages had to come from a restaurant or the deduction would be limited to 50%.

Takeout was fair game, the IRS explained, but not from a grocery store; specialty food store; beer, wine or liquor store; drug store; convenience store; newsstand; or vending machine or kiosk.

Of particular interest to Payroll, the notice also stated the 100% business deduction can't be taken if the restaurant is an:

- eating facility located on-site at your company and used to provide meals excluded from an employee's gross income under Sec. 119, or
- employer-operated eating facility treated as a Sec. 132 *de minimis* fringe benefit, even if the facility is operated by a third party.

### Substantiated with per diem rate?

More recently, the IRS issued Notice 2021-63, providing clarity on the temporary 100% deduction when a company uses a per diem rate or allowance. The guidance will be welcome news to A/P.

Companies can use a per diem rate to substantiate business expenses paid or incurred while traveling away from home.

In the notice, the IRS said the meal portion of a per diem rate or allowance paid or incurred during 2021 or 2022 can be attributed to food or beverages provided by a restaurant. That's a sigh of relief for businesses hoping to take the temporary 100% business deduction.

More info: [bit.ly/restaurants640](https://bit.ly/restaurants640)

## Intermittent FMLA leave: Did circumstances change?

A recent court decision sheds light on what you can do if an employee's use of intermittent leave under the Family and Medical Leave Act (FMLA) abruptly changes.

In *Whittington v. Tyson Foods*, the Eighth Circuit Court of Appeals said the employer didn't interfere with the employee's right to take FMLA leave when it asked for recertification and then terminated his employment after he failed to produce that from his doctor.

The doctor's original certification stated the employee would need

FMLA leave once or twice every one to two months. He'd be off for four to five days at a time, the note said – and that's what happened, for six months.

### 16 consecutive days off

Then suddenly, the employee took 16 consecutive days off. That was a “significant change in circumstances,” the company argued. The court agreed.

Action step: If an employee's circumstances change during FMLA leave, work with HR to decide if your company can ask for recertification.

More info: [bit.ly/fmla640](https://bit.ly/fmla640)

## NEWS YOU CAN USE

### ■ SURVEY SHOWS VALUE OF REAL-TIME PAYMENTS

What's the most important factor to your company when choosing a bank? Real-time payments (RTP) capability was how 85% of business leaders recently surveyed answered that question.

According to the survey by Citizens Financial Group, corporate decision-makers plan to use the RTP network to manage cash flow more accurately and handle payments requiring immediate attention.

Another way companies can utilize the RTP network? Running payroll on payday instead of ahead of time.

More info: [bit.ly/payments640](https://bit.ly/payments640)

### ■ IRS REVENUE PROCEDURE ON WORKER STATUS DISPUTES

If the IRS decides that certain workers at your company should be receiving W-2s instead of 1099s, your company may owe past employment taxes and penalties.

But what if your company thinks the IRS is wrong? You may be able to petition the Tax Court about the worker status dispute now, thanks to Revenue Procedure 2022-13. It sets forth four requirements.

More info: [www.irs.gov/pub/irs-droprp-22-13.pdf](https://www.irs.gov/pub/irs-droprp-22-13.pdf)

### ■ SOME AUTOMATED NOTICES SUSPENDED, DUE TO BACKLOG

IRS' backlog of paper returns to be processed has grown since the COVID-19 pandemic began. Meanwhile, taxpayers have continued to receive automated notices. Now, IRS says it has temporarily stopped issuing such notices. For example, the agency is suspending these business notices:

- CP259, *Return Delinquency* (and CP959 in Spanish), and
- CP518, *Final Notice – Return Delinquency* (and CP618 in Spanish).

More info: [bit.ly/notices640](https://bit.ly/notices640)

## TEST YOUR KNOWLEDGE

### ■ How well do you know the FLSA and hours worked?

The Fair Labor Standards Act (FLSA) has specific requirements about hours worked. But in certain situations, employers may think restrictions exist that don't.

Test your knowledge of the FLSA and hours worked by answering *True* or *False* to the following:

1. The FLSA defines part-time employment as working less than 30 hours per week.
2. According to the law, there's no limit on the hours per day an employee can work as long as he or she is at least 16 years old.
3. To comply with the law, you have to pay a premium of at least time-and-a-half the regular rate of pay for weekend and night shift hours worked.
4. The FLSA says employers must obtain employees' consent before changing their hours or making other scheduling changes.

## ANSWERS

### Answers to the quiz:

1. *False.* The law doesn't set a number of hours for part-time or full-time employment. Other federal laws do set hours-related thresholds – e.g., under the Affordable Care Act, an employee who works 30 hours a week must be offered health insurance.
2. *True.* The FLSA doesn't set a daily, or weekly, limit on number of hours employees who are at least 16 years old can be on the clock.
3. *False.* Time-and-a-half must be paid after someone puts in more than 40 hours in a workweek under the FLSA. The day of the week or the time of day don't alter that.
4. *False.* The law doesn't require consent or advance notice.

More info: [www.dol.gov/agencies/whd/flsa/faq](http://www.dol.gov/agencies/whd/flsa/faq)

## 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.*

#### **Avoided OT by adjusting employees' rates of pay**

**Employer:** Red Lion Home Care Inc., Ardmore, PA.

**Business:** Home care agency.

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

**Type of violation:** Red Lion Home Care paid straight time for all hours worked. To avoid paying overtime, the company adjusted employees' rates of pay. In addition, the home care agency failed to complete time records for all employees.

**Penalty:** According to a consent judgment, the company must pay \$1.4 million in back wages and an equal amount in liquidated damages to 491 employees. Red Lion Home Care must also pay \$251,637 in civil money penalties due to the willful violations.

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

#### **FLSA violations found at 11 franchise locations**

**Employer:** Menchie's Frozen Yogurt, 11 locations in WA and OR.

**Business:** Frozen yogurt franchise.

**Law broken:** Fair Labor Standards Act's tip, overtime, child labor and recordkeeping provisions.

**Type of violation:** Store managers were allowed to take a portion of employees' tips; some workers didn't earn overtime; and minors operated trash compactors at four locations. Menchie's also failed to keep accurate records of hours worked.

**Penalty:** \$96,973 in back wages and liquidated damages.

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

#### **Drywall company owed \$221K in back wages**

**Employer:** Intermountain Drywall and Acoustical Inc., Eagle, ID.

**Business:** Drywall installation.

**Law broken:** Overtime provision of the Fair Labor Standards Act.

**Type of violation:** Failed to pay overtime for hours worked over 40 in a workweek and lied to investigators about it.

**Penalty:** The company owed 59 workers \$110,526 in unpaid overtime wages and an equal amount in liquidated damages. Also, the company had to pay \$22,560 in civil money penalties.

**Government office:** Dept. of Labor, Wage and Hour Division, Portland, OR, district office.

#### **Didn't remit employees' retirement contributions**

**Employer:** Gibson Television Service Inc., Madison Heights, MI.

**Business:** Repair company.

**Law broken:** Employee Retirement Income Security Act (ERISA).

**Type of violation:** Failed to forward retirement contributions.

**Penalty:** The fiduciaries of the Gibson Television Service Inc. 401(k) Plan and Trust must restore \$50,764 in employee retirement contributions deducted from paychecks and lost opportunity costs. Additionally, they must pay a \$10,153 penalty for ERISA violations.

**Government office:** Employee Benefits Security Administration, Cincinnati Regional Office.

## Tracking local laws and regs

### ■ Illinois DOR: Multiple counties eligible for relief due to storms

The Illinois Dept. of Revenue announced that due to disastrous storms, employers in multiple counties have until May 16, 2022, to file tax returns and make tax payments.

They are Bond, Cass, Coles, Effingham, Fayette, Jersey, Macoupin, Madison, Menard, Montgomery, Morgan, Moultrie, Pike and Shelby counties.

**More info:** [bit.ly/illinois640](http://bit.ly/illinois640)

### ■ Employers in 2 AL counties can submit form for penalty relief

The Alabama Dept. of Revenue (DOR) is offering tax relief to certain businesses in Jefferson and Shelby counties.

This, after the Federal Emergency Management Agency issued a disaster declaration. Employers impacted by the 2021 severe storms and flooding have extra time to take care of their withholding tax responsibilities.

Companies have until Feb. 28, 2022, to file tax returns and make tax payments due on or after Oct. 6, 2021, and before Feb. 28, 2022. The

DOR says to submit Form PWR to seek a penalty waiver.

**More info:** [bit.ly/alabama640](http://bit.ly/alabama640)

### ■ After Marshall Fire, employers offered deadline extensions

Some Payroll pros in Boulder County, CO, have extra time to file returns and make payments due to the recent Marshall Fire.

The Colorado Dept. of Revenue (DOR) has moved its withholding tax deadlines from January to May 16, 2022. In addition, the DOR has extended the annual reconciliation deadline to March 31, 2022.

Deadline waivers aren't automatic. To request relief, businesses should call the tax information hotline at 303-238-7378, says DOR.

**More info:** [bit.ly/colorado640](http://bit.ly/colorado640)

### ■ Changes for exempt employees in these New York locations

Certain localities in New York – Nassau, Suffolk and Westchester counties and New York City – have raised the minimum salary employers must pay exempt employees.

As of Dec. 31, 2021, executive and

## PRODUCTIVITY BOOSTERS

### ■ Checking mailing addresses on file for employees

Unsure if you have an employee's mailing address correct?

IRS Publication 5594 may come in handy as a starting point for finding discrepancies.

The resource is called *Standard Postal Service State Abbreviations and ZIP Codes*.

The info is arranged by state. For example, New York ZIP codes include 005nn, 06390 and 100nn-149nn – and in Pennsylvania, ZIP codes include 150nn-196nn.

**More info:** [www.irs.gov/pub/irs-pdf/p5594.pdf](http://www.irs.gov/pub/irs-pdf/p5594.pdf)

administrative exempt employees must earn at least \$1,125 per week.

**More info:** [dol.ny.gov/minimum-wage-frequently-asked-questions](http://dol.ny.gov/minimum-wage-frequently-asked-questions)

### ■ Tax credits offered to employers in Montgomery County, MD

You can review a list of tax credits and exemptions available to employers in Montgomery County, MD. Examples include the New Jobs Tax Credit and the Home Computer Telecommuting Incentive.

**More info:** [bit.ly/taxcredits640](http://bit.ly/taxcredits640)

## REAL PROBLEMS, REAL SOLUTIONS

## Steps to improve ergonomics for work-from-home employees

When work-from-home started at the beginning of the pandemic, many employees assumed it was temporary.

So, if they had ergonomics problems with their work-from-home set-up, they didn't complain much.

But as time went by, that opened the door to more complaints, injuries and workers' comp claims.

A lot of people were working at dining room tables and using other furniture not meant for office use.

As a result, they faced some common challenges.

For example, work surfaces were too high, employees' hands and arms

weren't in the correct position to type, and chairs had no back rests.

### Aiming for neutral posture

The goal was for employees to have neutral postures, whether working remotely or in the office.

Here are some steps we've found to achieve that:

- If they're using a laptop, ensure they have a keyboard, mouse and monitor.
- Make sure they have a good desk chair.
- Encourage the use of alternate work surfaces such as card tables,

that will help employees work at a better height.

- Have them use stands if their laptop is their primary screen.
- Suggest they use a standing-height counter, at least part of the time.
- If they'll be on the phone, get them a headset, and:
- Remind them to build regular movement into their days – if possible, switching between sitting and standing.

*(Based on a presentation by Jeremy Wilzbacher, Sr. Consultant, Aon, Lander, WY, at American Society of Safety Professionals' 2021 conference)*

## Help wanted? More cities, states pass laws on salary transparency

### ■ EMPLOYERS MUST GIVE APPLICANTS WAGE RANGES FOR POSITIONS

What are the salary ranges for the positions at your company? In certain locations, that's info which must be shared with job candidates and even existing employees.

While some states have had laws on the books for several years, other locations have recently followed suit.

For you in Payroll, consider checking that the salaries employees end up being paid at your company match what's been advertised.

Here's a snapshot of what's going on across the country:

#### Cities with requirements

The **New York City** Council recently passed a law which will take effect May 15, 2022. The law requires employers to post the minimum and maximum salary offered for advertised jobs, promotions and transfers.

Two cities in Ohio, **Cincinnati** and **Toledo**, require that if a company has provided an applicant a conditional offer of employment and the applicant

makes a reasonable request, then the employer must provide the pay scale for the position.

#### States with requirements

In **California**, an employer that receives a reasonable request must provide a pay scale to a job applicant. The state says a request made after an applicant has gone through the initial interview process is "reasonable."

A **Colorado** law took effect last year, requiring employers to include pay and benefits info in job postings, even for remote work that can be performed anywhere.

As of October of 2021, employers in **Connecticut** must give applicants wage ranges for open positions when info is requested or before an offer is made – whichever is earlier.

**Maryland** employers must give applicants the wage range for an open position, if requested.

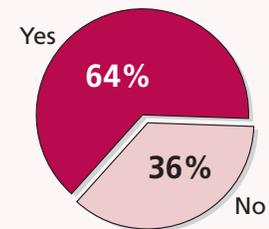
In **Nevada**, an applicant who's completed an interview should be given the position's salary range.

Job applicants in **Washington** who are offered a position must be

## WHAT PAYROLL PROS TOLD US

### Hiring now

Are you planning to hire permanent staff in the first half of 2022?



Source: Robert Half, companies with 20-499 employees surveyed

The top hiring strategies among companies that are trying to hire in 2022? Increasing starting salaries, offering remote options and providing signing bonuses.

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

provided with the minimum wage or salary of the position, if requested by the applicant.

*Looking ahead:* On Jan. 1, 2023, changes are coming in **Rhode Island**. Employers will need to provide applicants with the wage range for an available position. This must be done prior to discussing compensation.

## SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, the company lost. The court said the company had to pay for the unremitted contributions plus other expenses, such as audit costs. The company was bound by a collective bargaining agreement (CBA) to remit hourly contributions for each employee performing covered work.

During two audits, an auditor reviewed the company's payroll records to find the total number of hours worked for each employee. Then, the auditor compared that to the number of hours the company had reported to the ERISA pension fund.

The first audit, which spanned two years, revealed that \$25,761.86 hadn't been remitted. The second audit, covering a three-month period, turned up \$29,006.45 in missing contributions.

The CBA also required that the company remit the contributions to the fund within seven days of the due date. That didn't always happen, the court discovered.

Finally, as specified by the CBA, the company had to pay the correct contribution rates. Problems surfaced here, too: After one rate increase, the company waited two months before adjusting the hourly contribution rate that it paid.

All told, if the company would've made the correct contributions, it would've owed \$54,768.31. But instead, it had to fork over more than \$76,983.19 and deal with a messy legal situation.

### Analysis: Conducting internal audits

A missed payment can quickly snowball, starting with the principal amount and building with interest, liquidated damages, audit costs, attorneys' fees and costs, and more.

Internal audits are valuable for catching problems early, helping you remit contributions accurately and on time.

**Cite:** *Trustees of the New York City District Council of Carpenters Pension Fund v. Somerville*, 20 Civ. 8983 (PAE), New York D.C., S.D. New York, 12/22/21.

Note: Dramatized for effect.

## Industry news you can use

### ■ These successor employers must receive wage rates, other info

**Hotel owners and operators** in New Jersey that go through a change in control need to follow requirements set forth in new legislation, A-6246.

At least 30 days before the change in control, the former hotel employer must give the successor hotel employer a list containing each employee's name, address, date of hire, phone number, wage rate, and employment classification. The successor hotel employer must offer the employees continued employment with no reduction of wages or benefits for at least 90 days.

**More info:** [www.njleg.state.nj.us/bill-search/2020/A6246](http://www.njleg.state.nj.us/bill-search/2020/A6246)

### ■ NC: What happens now when a teacher requests a personal day?

In North Carolina, any reason a teacher gives for taking a personal day is now acceptable. **School districts** can no longer deduct a fee from

a teacher's pay to cover the cost of hiring a substitute teacher – as long as the individual gives a reason and makes the request at least five days in advance of the day off.

That's due to a policy amendment the North Carolina State Board of Education adopted on Feb. 3, 2022.

**Cite:** WCNC Charlotte, [bit.ly/teachers640](http://bit.ly/teachers640)

### ■ DOL initiative looks at pay for delivery, truck drivers

The U.S. Dept. of Labor (DOL) announced an initiative to ensure that workers in the **warehouse and logistics** industries are paid the correct wage. That includes delivery drivers, truck drivers and others.

In addition to ensuring they're paid the overtime and minimum wage due to them, the DOL will look at whether they're allowed to take time off under the Family and Medical Leave Act.

**More info:** [www.dol.gov/newsroom/releases/whd/whd20220208-1](http://www.dol.gov/newsroom/releases/whd/whd20220208-1)

## 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:*

### Is voided check necessary to set up direct deposit?

**Q:** In the past, we've asked new hires to show us a voided check when signing up for direct deposit. Is that necessary?

**A:** The point of the voided check is to provide Payroll with correct account and routing numbers. But these days, that info can be obtained in many other ways. So while asking for a voided check is still allowed, it isn't necessary. That's according to Nacha's Michael Kahn. He states employees can find their

account and routing numbers by signing in to online and mobile banking offered by their financial institutions. Some banks allow customers who've logged in to create prefilled direct deposit forms. Or there's always the option of the employee calling the bank or credit union to simply ask for the info, reminds Kahn. Once they verify it's really the employee on the phone, they should provide the numbers, and the employee can get signed up for direct deposit.

**More info:** [www.nacha.org/news/direct-deposit-without-voided-check-absolutely](http://www.nacha.org/news/direct-deposit-without-voided-check-absolutely)

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 publications contains Payroll-related updates.

- Form W-4, *Employee's Withholding Certificate*. Revised 2022. Posted 12/30/21.
- Publication 1494, *Table for Figuring Amount Exempt from Levy on Wages, Salary, and Other Income*. Revised 2022. Posted 1/3/22.
- Form W-4R, *Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions*. Revised 2022. Posted 1/3/22.
- Form 5504 (SP), *Free Small Business Virtual Tax Workshop (Spanish Version)*. Revised January 2022. Posted 1/10/22.
- Form 8845, *Indian Employment Credit*. Revised January 2022. Posted 1/10/22.
- Instructions for Form 8845, *Indian Employment Credit*. Revised January 2022. Posted 1/10/22.
- Form 8868, *Application for Automatic Extension of Time To File an Exempt Organization Return*. Revised January 2022. Posted 1/11/22.
- Form W-4 (SP), *Employee's Withholding Certificate (Spanish Version)*. Revised 2022. Posted 1/12/22.

**More info:** Find links by going to [www.keeptodateonpayroll.com/forms-and-publications-640](http://www.keeptodateonpayroll.com/forms-and-publications-640)

### 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!*

### ILLINOIS

- **WITHHOLDING:** The Dept. of Revenue has revised its withholding tables, effective Jan. 1, 2022. You can find the updated info in IL-700-T, *Illinois Withholding Tax Tables*. **More info:** [bit.ly/withholding640](http://bit.ly/withholding640)

### MARYLAND

- **FORMS W-2:** Tax year 2021 is the last year the Comptroller of Maryland will accept Forms W-2 submitted on magnetic media (diskettes/CDs). **More info:** [bit.ly/maryland640](http://bit.ly/maryland640)
- **WITHHOLDING:** A new law, Local Tax Relief for Working Families Act of 2021, lays out requirements for counties that impose a local income tax on a bracket basis. For example, the brackets must be set by ordinance or resolution, and the minimum tax rate can't be less than 2.25%. **More info:** [bit.ly/taxbrackets640](http://bit.ly/taxbrackets640)

### MINNESOTA

- **WITHHOLDING:** The Dept. of Revenue has released the 2022 *Minnesota Income Tax Withholding Instruction Booklet and Tax Tables*. In addition to the tax tables, the publication includes info on the new Form W-4MNP, *Minnesota Withholding Certificate for Pension or Annuity Payments*. **More info:** [www.revenue.state.mn.us/withholding-tax](http://www.revenue.state.mn.us/withholding-tax)

### MISSISSIPPI

- **WITHHOLDING:** The Dept. of Revenue has updated its withholding tables for 2022. They can be found in Pub 89-700-21-1. **More info:** [www.dor.ms.gov/sites/default/files/Business/89700218.pdf](http://www.dor.ms.gov/sites/default/files/Business/89700218.pdf)

### NEW YORK

- **EXEMPT EMPLOYEES:** The minimum salary employers must pay executive and administrative employees for them to be exempt from overtime has increased. As of Dec. 31, 2021, for most of the state, it's \$990 per week. **More info:** [dol.ny.gov/minimum-wage-frequently-asked-questions](http://dol.ny.gov/minimum-wage-frequently-asked-questions)

### NORTH DAKOTA

- **WITHHOLDING:** Access the 2022 *North Dakota Income Tax Withholding Rates & Instructions* to ensure your tables are up to date. **More info:** [bit.ly/nd-640](http://bit.ly/nd-640)

### OREGON

- **WITHHOLDING:** *Oregon Withholding Tax Tables* has been revised, effective Jan. 1, 2022. **More info:** [bit.ly/or-640](http://bit.ly/or-640)

### TEXAS

- **FUTA TAX:** There's good news for employers in Texas when it comes to FUTA tax. Texas had been one of about 10 states with outstanding loans from the Federal Unemployment Account, but in November of 2021, the state paid off its loan. That means employers in the state can plan for a FUTA tax rate of 0.6% when they file Forms 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*, in January of 2023. **More info:** [bit.ly/texas640](http://bit.ly/texas640)

### WASHINGTON

- **LONG-TERM CARE:** Employers have clarity on the WA Cares Fund, thanks to two new laws: HB 1732 and HR 1733. Now, withholding the long-term care insurance premiums won't begin until July 1, 2023 (the original start date had been Jan. 1, 2022). Also, employers should refund any premiums already collected – and that must be done within 120 days of the: 1) employer's withholding,

or 2) state's reimbursement to the employer for premiums remitted. The new legislation brings other changes, too, including more employees being able to opt out of the insurance program. **More info:** [bit.ly/1732-640](http://bit.ly/1732-640), [bit.ly/1733-640](http://bit.ly/1733-640)

### WISCONSIN

- **WITHHOLDING:** You may need to send the Dept. of Revenue a copy of someone's Form WT-4 if either: 1) the employee claims more than 10 exemptions for Wisconsin purposes, or 2) he or she claims a complete exemption but earns more than \$200 per week. In the case of employees who say they're completely exempt, they must give you new Forms WT-4 every year on or before April 30. **More info:** [bit.ly/wisconsin-640](http://bit.ly/wisconsin-640)

## THE LIGHTER SIDE

If you think vitamin C will help keep you healthy so you can avoid sick days, then you should have been at Rouses Markets in Louisiana earlier this year.

The grocery store's Matairie location and Sunkist Growers worked together to earn a Guinness World Records title: largest display of citrus fruits.

The display contained oranges, mandarins, lemons, grapefruit and tangelos – over 100,000 pieces of fruit, adding up to 40,000 pounds.

It took produce merchandisers only eight hours to get the citrus stacked up to earn the award.

Impressive, but this isn't even Rouses Markets' first title. The chain holds two other "largest display" Guinness World Records – one for artichokes, the other for avocados.

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