

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

April 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.

■ TAX LIABILITIES RESOLVED UNDER THIS INITIATIVE

Item: Form 13751, *Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.*

Background: Used to determine the eligibility for participation in the settlement initiative.

Comments due: 5/6/22.

Cite: *Federal Register*, 3/7/22.

■ USER FEE FOR REQUESTING OPINION LETTER FROM IRS

Item: Form 8717 and Form 8717-A, *User Fee for Employee Plan Determination or Opinion Letter Request.*

Background: When requesting ruling letters, opinion letters or determination letters from the IRS, you must pay a user fee.

Comments due: 5/9/22.

Cite: *Federal Register*, 3/8/22.

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

IRS: New reason Form W-2c may be needed for TY '20, '21

■ Timing of sick leave and family leave wages

You may need to give employees Forms W-2c for tax years 2020 and/or 2021 depending on what you reported in Box 14.

As Payroll pros know, wages paid for Families First Coronavirus Response Act (FFCRA) and American Rescue Plan Act (ARPA) leave had to be reported in Box 14 of Forms W-2.

Alternatively, Payroll could give employees a separate statement containing the information.

Currently, some employers are claiming tax credits for sick leave or family leave wages paid *after Dec. 31, 2021*. Specifically, the credits are for:

- FFCRA leave taken after March 31, 2020, and before April 1, 2021, and

- ARPA leave taken after March 31, 2021, and before Oct. 1, 2021.

As indicated in facts sheets 2022-15 and 2022-16, issue a 2020 W-2c to an employee if adding leave wages taken in 2020 and paid after 2021.

Likewise, issue a 2021 W-2c to an employee if adding leave wages taken in 2021 and paid after 2021.

Note: You don't need to file a W-2c with SSA if you're only correcting an amount in Box 14.

Model language for Box 14

IRS had previously provided model language for reporting sick leave or family leave wages in Box 14. First,

(Please see Form W-2c ... on Page 2)

Provide details, including wage info, for tax credit

Businesses that want to claim the research credit on an amended return will need to provide specific facts, including wage data. That's according to IRS Chief Counsel Memorandum 20214101F.

And with improper claims of business tax credits making the IRS' list of "Dirty Dozen" scams for several years now, it's important to dot your i's and cross your t's on this one.

Latest IRS guidance

A research and development (R&D) tax credit is allowed under Internal Revenue Code Sec. 41 with proper documentation. In addition to the

memorandum, IRS recently released FAQs spelling out what's needed.

First, identify all the business components to which the R&D credit claim relates for that year.

Then, for each one, identify: all research activities performed; the names of the people who performed each research activity; and the info each person sought to discover.

Finally, provide the total qualified employee wage expenses and the other expenses required on Form 6765, *Credit for Increasing Research Activities*.

More info: bit.ly/research642

Not paying for pre- and post-shift work: A costly FLSA violation

■ TRAFFIC CONTROL COMPANY OWED \$125K AFTER DOL INVESTIGATION

Doing prep or wrap-up work may not seem like much in the scope of an entire workday, and some businesses think they can save money by not paying people for that time.

But the opposite may be true, as a traffic control company discovered following a U.S. Dept. of Labor (DOL) investigation.

Area Wide Protection Inc., d.b.a. Roadtek Traffic Solutions LLC, had to pay \$112,187 in back wages and an equal amount in liquidated damages to 297 nonexempt employees.

The employees, who worked in Virginia, North Carolina and Pennsylvania, had to report to the office to conduct pre- and post-shift tasks in order to head out to provide flagging, detour, lane closure and other services on roadways. Problem was,

they didn't get paid for the time they put in before and after their shifts.

That resulted in the company violating the overtime provisions of the Fair Labor Standards Act (FLSA).

In addition, the DOL said the Virginia-based employer didn't maintain accurate records of hours worked.

On the clock when working

Check whether employees at your company are expected to do pre- and post-shift work and whether they should be on the clock.

That might include gathering supplies, putting tools away, taking care of personal protective equipment or sitting through training.

More info: bit.ly/traffic642

Form W-2c ...

(continued from Page 1)

on July 8, 2020, Notice 2020-54 contained optional wording on the three types of wages employers had to report for TY 2020:

- "Sick leave wages subject to the \$511 per day limit because of care you required."
- "Sick leave wages subject to the \$200 per day limit because of care you provided to another."
- "Emergency family leave wages."

Then, on Sept. 7, 2021, IRS issued TY 2021 guidance in Notice 2021-53. That notice laid out six types of wages. Specifically, Payroll would go through the previous list and insert:

- "paid for leave taken after Dec. 31, 2020, and before April 1, 2021" (FFCRA leave), and then go back through the list and insert
- "paid for leave taken after March 31, 2021, and before Oct. 1, 2021" (APRA leave).

More info: bit.ly/15fs642,
bit.ly/16fs642

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.

■ HE REQUESTED LEAVE, BUT DID HE WORK 12 MONTHS?

"Tim's payroll termination date was entered in the system as July 28," Payroll Manager Pat Gray said to HR Manager Cheryl Jones.

"But," Pat went on, "his last day at work was July 21."

"Yes, and that's why he wasn't eligible for FMLA leave – he fell just shy of working here for 12 months. After all, his first day on the job was July 25 the year before," said Cheryl.

"So why's Tim saying now that we denied him leave?" asked Pat.

"Denied him leave and retaliated against him," clarified Cheryl. "Well, because he has a different version of what happened on July 14 than we do."

Medical procedure scheduled

"What's his version?" asked Pat.

"If you ask Tim, that's the day he informed us he'd need a heart catheterization at the end of July," Cheryl said.

"I don't remember seeing FMLA paperwork for him," said Pat.

"I know, and I don't recall him saying anything about a medical procedure," said Cheryl. "Instead, I remember he was absent July 14, but he made it look like he was at work. When we confronted him about it, he lied, so he got fired."

The former employee sued under the Family and Medical Leave Act.

The company argued he had no grounds for his claims about denial of leave or retaliation because he hadn't worked for the company for 12 months. Did the company win?

■ 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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Looking ahead: Changes to expect when filing 2022 W-2s and 1099s

■ WILL FILING THRESHOLD DROP FROM 250 TO 10? IRS HAS NO FIRM PLANS

Employers were waiting for IRS to release final regs reducing the electronic filing threshold from 250 to 10 returns for TY 2021. But that never happened.

No regs. No explanations.

Now, in the recently released 2022 W-2 and 1099 instructions, the IRS is once again telling employers that final regs are tentative.

“If” the regs are issued and effective for 2022 tax returns, the IRS says it’ll notify employers on its website.

As you may recall, the Taxpayer First Act of 2019 authorized the IRS to issue regs requiring electronic filing from more employers. According to proposed regs, released in July 2021, businesses would need to aggregate W-2s, 1099s and other forms to see if they hit the lower threshold.

As we wait for the next step on that, here are some other changes noted in the forms’ instructions.

What else to look for

Penalties are going up for failing to correctly file W-2s or 1099s. As of Jan. 1, 2023, penalties will be:

- \$50 per return if you correctly file within 30 days of the due date (maximum penalty is \$588,500 per year or \$206,000 per year for small businesses)
- \$110 per return if you correctly file more than 30 days after the due date but by August 1 (max penalty: \$1,766,000 or \$588,500), and
- \$290 per return if you file after August 1 (max penalty: \$3,532,500 or \$1,177,500).

You may have a discrepancy when reconciling Form W-2 and Form W-3 with Form 941. That heads-up is contained in the W-2 instructions.

The problem is related to COVID employment tax credits – i.e., certain leave isn’t subject to the employer share of Social Security tax.

The new 1099 portal is still scheduled to be up and running by January 2023. That’s according to the 1099 instructions.

Payroll may want to help walk A/P through its use once it’s functional. After all, IRS is modeling the portal after SSA’s Business Services Online, which Payroll has used for years to file W-2s.

More info: www.irs.gov/formw2, www.irs.gov/form1099

How your peers handled ACH payments in 2021

Businesses increased their use of the ACH Network for payments such as direct deposit during 2021.

In fact, payment volume was up 8.7%, or 2.3 billion, over 2020, reports Nacha.

That marks the seventh year in a row that volume of payments grew by at least 1 billion.

As for Same Day ACH, volume for that type of payment grew nearly 74%. Keep in mind the per-payment limit for Same Day ACH was still \$100,000 in 2021, with the increase to \$1 million set for March 18, 2022.

The business-to-business sector led the way, making \$50 trillion in payments using the ACH Network.

By comparison, medical and dental practices and facilities received \$2 trillion in healthcare claim payments.

Direct deposit and more

Beyond direct deposit, companies use the ACH Network for many reasons including:

- for tax payments, and
- to pay invoices from third-parties, such as payroll service providers.

More info: bit.ly/payments642

NEWS YOU CAN USE

■ IRS: LATEST FORM 941 CHANGES FOR Q1 ONLY

The IRS has finalized changes to Form 941 and its instructions for the first quarter of 2022.

To ensure that you’ll use the form only for the first quarter, the IRS has grayed out the boxes for the second, third and fourth quarters.

The IRS also made changes to the Schedule R instructions (and to the schedule itself) as well as to the Schedule B instructions.

The revision date for all of the above? March 2022.

More info: www.irs.gov/form941

■ SEC. 911 INCOME EXCLUSIONS: WHAT’S CHANGED FOR 2022

In IRS Notice 2022-10, you’ll find the 2022 adjustments to the limitation on housing expenses for employees in foreign locations.

Under the general limitation of Internal Revenue Code Sec. 911, the maximum housing expense is \$33,600 (\$112,000 x .30). The notice also contains a table for limitations on housing expenses in specific locations. For example, the table includes more than 30 locations for the United Kingdom alone.

More info: bit.ly/housing642

■ ARE ‘OT GAP TIME’ CLAIMS ALLOWED UNDER FLSA?

There’s a federal circuit court split about whether employees can bring “overtime gap time” claims under the Fair Labor Standards Act (FLSA).

The Second Circuit has said no.

But the Fourth Circuit recently allowed such a claim in *Conner v. Cleveland County*. Two keys were that: 1) the employee had worked at least one week containing overtime and 2) she hadn’t been paid all the straight-time wages due her under her employment agreement. The case has gone back down to the trial court.

More info: bit.ly/gaptime642

■ What if you find errors with 401(k) plan salary deferrals?

Whether your company's retirement plan is new or has been around for years, keeping regular tabs on the plan is a must to retain its tax-free status. How much do you know about fixing problems if you find them? To find out, answer *True* or *False* to the following:

1. If you realize an employee has exceeded the Sec. 402(g) limit for elective deferrals – e.g., \$20,500 for 2022 – you have a full calendar year to return the excess amount to that person.
2. Assuming you return excess deferrals on time, the amount would be taxable in the calendar year deferred.
3. Earnings you return with excess deferrals are taxable in the same calendar year as the deferrals.
4. Failing to return excess deferrals on time means you need to take corrective measures.

ANSWERS

- Answers to the quiz:**
1. *False.* You have until April 15 of the year following the year of the deferral to return the excess amount and earnings.
 2. *True.* You may need to prepare a Form W-2c to adjust the employee's wages. So, for example, if you returned \$1,000 to a plan participant in January of 2022, you'd need to amend that employee's tax year 2021 Form W-2.
 3. *False.* Earnings are taxable in the year you distribute them to an employee.
 4. *True.* To avoid the consequences of plan disqualification, you can use the IRS Employee Plans Compliance Resolution System (EPCRS). There are three ways to fix mistakes under EPCRS.
- More info: bit.ly/retirement642*

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.

Paid a fixed salary, even if weekly hours exceeded 40

Employer: Heavenly Victory LLC, d.b.a. Naranjero Super 1, Albuquerque, NM.

Business: Supermarket.

Law broken: Overtime, recordkeeping and child labor provisions of the Fair Labor Standards Act.

Type of violation: Paid employees a fixed salary for all hours worked instead of using the overtime rate for hours that exceeded 40 in a workweek. The supermarket modified time records to reflect only 40 hours worked per week. Also, minors under 18 operated a meat saw and a meat slicer.

Penalty: \$16,075 in owed overtime to four workers and \$4,888 in civil money penalties.

Government office: Dept. of Labor, Wage and Hour Division, Albuquerque, NM, district office.

Trouble with bonuses paid to pizza delivery drivers

Employer: Hungry Howie's, Jacksonville, FL.

Business: Pizzerias.

Law broken: Overtime and child labor requirements of the Fair Labor Standards Act.

Type of violation: Investigations took place at three locations. The pizzerias didn't include driver bonuses when calculating overtime rates. They failed to use the state's minimum wage when determining overtime. At one location, minors had been permitted to work after 7 p.m. during a school week.

Penalty: \$2,895 in back wages and

liquidated damages for 12 workers and \$7,839 in penalties.

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

Agreement: 160 hours of work with no overtime

Employer: A Bright Future Inc., American Canyon, CA.

Business: Home care agency.

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

Type of violation: Required hourly employees to sign an agreement that they'd be paid straight time for up to 160 hours per pay period. When they worked hours funded by the state's In-Home Supportive Services program, the agency didn't record those as hours worked.

Penalty: \$315,000 in back wages for 158 workers.

Government office: Dept. of Labor, Wage and Hour Division, San Jose, CA, district office.

\$34K owed for problems under H-2B program

Employer: Palmetto State Forestry Services LLC, Walterboro, SC.

Business: Landscaping.

Law broken: Immigration and Nationality Act.

Type of violation: The landscaper discriminated against U.S. workers by paying them less than H-2B workers, didn't pay the visa holders for their travel costs and committed other violations.

Penalty: \$13,516 in back wages for 31 workers and a \$20,514 civil money penalty.

Government office: Dept. of Labor, Wage and Hour Division, Southeast Regional Office.

Tracking local laws and regs

■ 2 Minnesota cities will see minimum wage increases

In Minneapolis, the minimum wage will soon increase. On July 1, 2022, large employers (more than 100 employees) will need to pay at least \$15 per hour, up from \$14.25. The new rate for small employers (100 or fewer employees) will be \$13.50 per hour, up from \$12.50. In St. Paul, businesses that have more than 10,000 employees will be required to pay \$15 per hour, up from \$12.50. The hourly rate for large businesses (101-10,000 employees) is going up to \$13.50 (from \$12.50). For small businesses (six to 100 employees), it'll be \$12 (from \$11). The hourly rate for businesses with five or fewer employees will be \$10.75 (up from \$10).

More info: *minimumwage.minneapolismn.gov, bit.ly/stpaul642*

■ In Montgomery County, MD, minimum wage going up

The minimum wage will increase on July 1, 2022, in Montgomery County, MD. Large employers (51 employees or more) will have to pay workers an hourly rate of at least \$15.65, up

from \$15. Mid-size employers (11-50 employees) must pay \$14.50 per hour, up from \$14.25. Those with 10 or fewer employees will continue to pay \$14 per hour.

More info: *bit.ly/montgomery642*

■ Minimum wage increasing on the local level in Illinois

The minimum wage in Illinois is \$12 per hour in 2022, but employers in two localities will pay higher rates starting July 1, 2022. In Chicago, the hourly rate is increasing from \$15 to \$15 plus an inflation adjustment for businesses with 21 or more employees; and from \$14 to \$14.50 for businesses with four to 20 employees. In Cook County, the per-hour minimum wage rate is going up from \$13 to \$13 plus an inflation adjustment.

More info: *chicago.gov, www.cookcountyil.gov*

■ Louisville's updated regs bring occupational license tax changes

In Kentucky, the Louisville Metro Revenue Commission updated its regs, effective Jan. 1, 2022. Some businesses that haven't yet had to file the occupational license tax

■ 4 ways you can use the Child Support Portal

To use the Employer Services applications on the Child Support Portal, you'll first need to fill out a form to register. Then you can:

1. supply and update info about your organization, such as contact names and email addresses
2. report lump-sum payments for employees who may owe past-due child support
3. report employee terminations, and
4. register as a multistate employer.

More info: *bit.ly/portal642*

may need to do so. Example: The regs cover the physical presence of remote employees. An employer that has one or more remote employees working within Louisville Metro has a tax nexus if: 1) 10% or more of the company's employees work remotely in Louisville Metro – even part of the time – at any point during the taxable period, or 2) compensation paid to remote employees working within the locality exceeds \$75,000 during the taxable period. You'd need to withhold the tax from remote employees' wages.

More info: *bit.ly/louisville642*

REAL PROBLEMS, REAL SOLUTIONS

New laws meant new paid time off codes for us

Preparedness and flexibility became more important than ever when a flurry of new laws came Payroll's way starting in 2020, due to the coronavirus pandemic.

We had little time to process new legislation, such as the federal Families First Coronavirus Response Act (FFCRA). We all learned as we went along.

Set my starting point

Right away, I created specific paid time off codes for tracking employees' compensation.

I figured if I needed to make

modifications later, I could, but at least I'd have a starting point by choosing codes early on.

The emergency paid sick leave provision of the FFCRA was clear from the beginning.

That was, employees on leave would earn up to \$511 per day (\$5,110 total) or \$200 per day (\$2,000 total), depending on the reason for the time off.

Later, light was shed on the expanded family and medical leave provision of the FFCRA, too.

With that, the first two weeks of someone's sick leave (paid at up to

\$200 per day) would run concurrent with the first two weeks of that person's expanded family and medical leave – for a total of 12 weeks and \$12,000.

I had to make some adjustments to our payroll system based on that updated information.

But that sure beat starting from scratch.

That was especially the case since the new federal laws just kept coming our way.

(Name withheld by request from a payroll manager at a school system in Maryland)

Pandemic's repercussions on wages, workplace decisions in 2021: Survey

■ BUREAU OF LABOR STATISTICS
RELEASED 2021 BUSINESS DATA

New Bureau of Labor Statistics (BLS) data reveals the changes businesses made in the middle of the coronavirus pandemic, some involving Payroll.

The BLS released the 2021 U.S. Business Response Survey to the Coronavirus Pandemic at the beginning of this year.

The survey data was collected from July 27, 2021, through Sept. 30, 2021. Here's what we learned:

Changes in pay

The survey showed that businesses utilized pay increases, premium rates and bonuses to get through the difficult time.

Among private-sector employers, 20.5% increased the base wage offered to employees.

Certain establishments exceeded the average for pay increases. They were accommodation and food services; retail trade; health care and social assistance; and manufacturing.

Payroll had a hand in making other business-related changes:

- 15.7% of private-sector establishments temporarily provided employees with hazard pay or an hourly bonus.
- 23.7% of the same sector gave employees a one-time, special monetary bonus for working during the pandemic.

Increased flexibility

The survey also looked at telework among private-sector establishments.

- 34.5% of establishments increased telework for some or all employees.
- 60.2% of those establishments said they expect to keep the increases permanent when the pandemic is over.

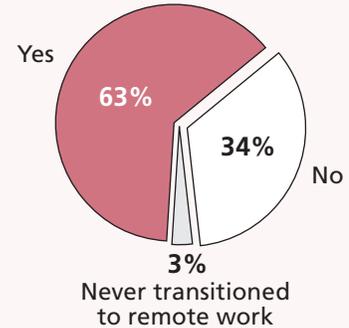
Less rigidity with work hours also increased. Specifically, 33.9% of private-sector employers surveyed said they started to offer flexible or staggered work schedules.

Vaccination info

As for vaccinations, here's what the survey showed:

WHAT PAYROLL PROS TOLD US

Remote work
Has your company's "return to office" been finalized?



Source: PlanSponsor's NewsDash 2/22 survey

Make sure employees are clear on your company's expectations for days in the office and arrival times so you can avoid disputes over attendance issues.

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

- 17.5% of establishments said they required COVID-19 vaccination before working onsite.
- 28% offered a financial incentive, provided paid time off or permitted employees to remain on the clock to get a COVID-19 vaccination.

More info: www.bls.gov/news.release/covid2.htm

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes. The judge dismissed the Family and Medical Leave Act (FMLA) case in favor of the employer.

The former employee had worked for the company for over 11 months when the events in question took place.

According to the former employee, he notified the company on July 14 that he'd need a medical procedure at the end of that month. But prior to the date of his heart catheterization, his employment was terminated.

The employer had a different version of what happened on July 14. The company said his termination had nothing to do with FMLA leave. Rather, the former employee had reported being at work when, in actuality, he'd been absent. When confronted about the situation, he lied. Therefore, the company let him go.

The case could have gone more smoothly, but there was some confusion over his termination date. While the company gave him a payroll termination date of July 28,

the last day he did any work for the company was July 21. The July 28 date was administrative – the July 21 date indicated his last day of work and was the relevant date.

Indeed, the former employee had been only a few days away from completing 12 months of work. Nonetheless, he wasn't eligible for FMLA leave at the time he was fired. And if the employee wasn't eligible for leave, then the FMLA claims had no grounding.

Analysis: Clarity with termination dates

An employee may be close – even a matter of days away – from being eligible for FMLA leave, but that doesn't mean they're entitled to it.

To prevent confusion, check your terminology. Make sure there's a clear distinction between someone's last day of work and any administrative dates you use related to someone's termination.

Cite: *Kendrick v. Worldwide Equipment Inc.*, No. 3:18-CV-254-KAC-HBG, U.S. D.C., E.D. Tennessee, Northern Division, 3/1/22. Note: Dramatized for effect.

Industry news you can use

■ Updates to ABC test and professional services contracts

Certain contracts for professional services are exempt from California's ABC worker classification test. In February of 2022, the Employment Development Dept. updated its list of professional services. You'll find 15 categories on the list, including **graphic designer** and **grant writer**. The remaining categories have additional industry-specific requirements.

More info: www.edd.ca.gov/pdf_pub_ctr/de231pf.pdf

■ These outdoor companies not subject to minimum wage

You don't need to pay certain **seasonal recreational workers** the minimum wage for federal contractors – at least not yet. Employers that held contracts with the federal government to provide seasonal recreational services or seasonal recreational equipment rental for the general public on federal lands had been exempt from the requirements of executive orders.

But President Biden's Executive Order 14026 – which increased the federal contractor minimum wage to \$15 per hour on Jan. 30, 2022 – applies to these employers. A legal battle is underway in *Bradford v. U.S. Dept. of Labor* with the Tenth Circuit Court of Appeals issuing an injunction on Feb. 17, 2022.

More info: bit.ly/recreation642

■ Credit union employees weren't exempt under federal OT law

Mortgage loan advisors and **mortgage loan originators** shouldn't have been classified as exempt from overtime because they didn't meet the salary levels and duty requirements.

That's what the U.S. Dept. of Labor told a credit union with 18 locations in Indiana. Interra Credit Union had to pay \$37,000 in back wages.

Employees earned a salary plus commission, but the commission wasn't high enough.

More info: www.dol.gov/newsroom/releases/whd/whd20220309

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:

Last-known address isn't current – now what?

Q: We're attempting to locate some former employees regarding our retirement plan. We're at risk of losing our plan's qualified status if we can't contact them. What are some methods for finding a participant's or beneficiary's current address?

A: Whether it's something routine, like informing retirees of their required minimum distributions, or something out-of-the-ordinary, such as making plan corrections and needing to pay additional

benefits, a wrong address can be bad news from a tax perspective. Don't forget to check with other departments at your company to see if they have updated records. Consider reaching out to emergency contacts you have on file. If you're still unable to find current addresses, you could use an online search engine, tap social media, review public records or check the obituaries. Beyond that, you may need to use a commercial locator service or a credit reporting agency to locate missing participants.

More info: www.irs.gov/pub/irs-drop/rp-21-30.pdf

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

WHERE TO GET HELP

RECENT CHANGES TO FEDERAL FORMS AND PUBLICATIONS

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

- Form W-3, *Transmittal of Wage and Tax Statements*. Revised 2022. Posted 2/4/22.
- Form 5498-SA, *HSA, Archer MSA, or Medicare Advantage MSA Information*. Revised 2022. Posted 2/8/22.
- Publication 926, *Household Employer's Tax Guide*. Revised 2022. Posted 2/9/22.
- Form 720, *Quarterly Federal Excise Tax Return*. Revised March 2022. Posted 2/10/22.
- Publication 538, *Accounting Periods and Methods*. Revised January 2022. Posted 2/15/22.
- *Instructions for Form 8915-F*. Revised February 2022. Posted 2/15/22.
- *General Instructions for Certain Information Returns (Forms 1096, 1097, 1098, 1099, 3921, 3922, 5498, and W-2G)*. Revised 2022. Posted 2/17/22.
- Form 944-X, *Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund*. Revised February 2022. Posted 2/24/22.
- *Instructions for Form 944-X*. Revised February 2022. Posted 2/24/22.

More info: Find links by going to www.keeptodateonpayroll.com/forms-and-publications-642

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

- **PAID SICK LEAVE:** Although the 2021 COVID-19 supplemental paid sick leave law expired on Sept. 30, 2021, a new law (SB 114) has filled the void. The new legislation takes effect retroactively on Jan. 1, 2022, and expires on Sept. 30, 2022. Employers with more than 25 employees must provide 80 hours of the supplemental paid sick leave. Plus, as of Feb. 19, 2022, each employee's itemized wage statement should include the amount of COVID-19 supplemental paid sick leave used in the pay period, even if it's zero hours. **More info:** bit.ly/supplemental642
- **RETIREMENT PLANS:** The U.S. Supreme Court said it won't hear a case regarding the CalSavers Retirement Savings Program, so the Ninth Circuit Court of Appeals ruling will stand. The program requires employers that don't sponsor retirement plans to make salary deferrals – the contributions go to an individual retirement account owed by the employee. CalSavers is run by the state, so ERISA doesn't pre-empt it, the appeals court had ruled. Note: On June 30, 2022, employers with five or more employees will need to participate, as larger employers have already done. **More info:** bit.ly/calsavers642

CONNECTICUT

- **PAID LEAVE:** The Connecticut Dept. of Labor has proposed regs, adopting amendments to the Connecticut Family and Medical Leave Act. The law now covers almost all employers with one or more employees (was 75 employees), allowing them

to take leave after three months (was 12 months) of employment. Previously, they could take leave for a spouse, son, daughter or parent with a serious health condition, but that's been expanded to include a sibling, grandparent, grandchild or an individual with whom they have a family-like association. **More info:** bit.ly/connecticut642

IOWA

- **WITHHOLDING:** The Dept. of Revenue's new portal, GovConnectIowa, has been up and running since the end of 2021, and as of February 2022, eFile & Pay is no longer available for withholding taxes. **More info:** tax.iowa.gov/govconnectiowa-available-get-connected-today

KENTUCKY

- **INCOME TAX:** HB 8, recently introduced, would reduce the income tax rate from the current 5%. On Jan. 1, 2023, the rate would be 4% and would incrementally continue to decrease until reaching zero. Meanwhile, certain services would no longer be exempt from the 6% sales tax. They include: photography, advertising, marketing and many other services. **More info:** bit.ly/kentucky642

MINNESOTA

- **THIRD-PARTY SICK PAY:** If employees are absent due to injury, sickness or disability, receiving third-party sick pay as a result, you may need to withhold income tax and report the pay and tax withheld on Form W-2. As the Dept. of Revenue recently explained, that's the case if an employer pays the premiums for an employee's sick pay insurance policy and also makes sick leave payments directly to the employee or through an agent. **More info:** www.revenue.state.mn.us/third-party-sick-pay

PENNSYLVANIA

- **OVERTIME:** The Dept. of Labor and Industry finalized its rule regarding the calculation of overtime for salaried nonexempt employees, with approval needed from the Independent Regulatory Review Commission. Under the rule, employers wouldn't be able to use the "fluctuating workweek" method to calculate overtime. **More info:** bit.ly/pennsylvania642

WEST VIRGINIA

- **UI TAX:** The taxable wage base for unemployment insurance (UI) had been set at \$12,000 for 2022 but, after 2022 began, was decreased to \$9,000. That's effective for first quarter filing. **Cite:** *WorkForce West Virginia, 2/16/22 letter.*

THE LIGHTER SIDE

As travel for business and personal reasons picks up again around the country, you may be wishing you could take a trip to somewhere exotic.

That's what Massachusetts resident Catherine Graham was hoping, and she thought she had her chance recently when she was a contestant on "The Price Is Right."

She'd won a firepit and a love seat, and then she got picked to play "Side by Side."

The goal? To rearrange \$9,676 to correctly guess the value of a trip.

She succeeded when she guessed \$7,696. The trip was hers!

So, where would the prize take her? All the way to neighboring New Hampshire.

Cite: *AP, 2/10/22, "Massachusetts game show winner gets trip to New Hampshire"*