

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

September 15, 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.

■ REPORTING TAX WITHHELD FOR FOREIGN PERSONS

Item: Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*.

Background: Used for reporting tax withheld at source on certain income paid to nonresident alien individuals, foreign partnerships and foreign corporations.

Comments due: 10/31/22.

Cite: *Federal Register*, 8/30/22.

■ COMMERCIAL BUILDINGS AND ENERGY EFFICIENCY

Item: Notice 2006-52, Notice 2008-40, *Deduction for Energy Efficient Commercial Buildings*.

Background: The notices present the process by which the owner of energy efficient commercial building property can certify that the property satisfies the requirements of the Internal Revenue Code. The notices also contain related procedures for computer software developers.

Comments due: 10/31/22.

Cite: *Federal Register*, 8/31/22.

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

I-9 flexibility, changes to form contained in proposed rule

■ Plus, new options for document retention

The temporarily relaxed requirements for reviewing new hires' Form I-9 documents may become the norm, thanks to a proposed rule from the Dept. of Homeland Security (DHS).

The Aug. 18, 2022, proposed rule would formalize the homeland security secretary's authority related to the I-9. That could lead to:

- extending flexibilities
- providing alternative options during the hiring, reverifying and rehiring process, and
- conducting a pilot program to evaluate procedures.

Furthermore, the changes proposed by the secretary could apply to some

or all employers, meaning it wouldn't matter whether your employees physically report to work at a company location.

Check this box

Anticipating that employers will need to indicate on Form I-9 whether alternative procedures were used when examining identity and employment authorization documents, DHS has proposed changes to the form and instructions.

For example, that might be as simple as a box employers check if they used alternative procedures.

Then, if there's an audit conducted

(Please see I-9 flexibility ... on Page 2)

How much do you deduct for healthcare premiums?

In 2022, the average annual amount Payroll is deducting from employees' paychecks for healthcare premiums is \$2,520.

That's up 0.6% from 2021, when the average annual amount for the deductions was \$2,504.

That's according to Aon's Health Value Initiative.

The increase in employer costs was higher – 3.7% – with \$10,500 being paid per employee in 2022 and \$10,123 in 2021.

And here's some tough-but-useful news to pass along to your CFO based on the Aon data: In 2023, the average

healthcare plan cost is projected to hit \$13,800, which is a 6.5% increase from this year.

Employees paying deductibles

The Aon research also showed that in 2022, employees are paying \$1,892 in out-of-pocket payments – including deductibles – up from \$1,798 in 2021.

Consider that in light of the IRS amounts for high-deductible health plans (HDHP). For 2022, an HDHP plan must have a deductible of at least \$1,400 for an individual and \$2,800 for a family.

More info: bit.ly/healthcare653

Multiple violations found, including failure to give worker final paycheck

■ CONSTRUCTION CONTRACTOR DIDN'T FOLLOW FLSA RULES

Once an employee leaves the company, the clock is ticking on issuing a final paycheck.

Not getting a check out at all was one problem the Dept. of Labor (DOL) found during an investigation of a Cleveland, TN, contractor.

The company's misstep resulted in minimum wage violations under the Fair Labor Standards Act (FLSA).

Tom Willumson LLC, operating as Concept Construction, also classified workers as independent contractors when they were employees.

In addition, the employer had agreed to pay some workers a certain rate of pay, and instead of simply paying that, it paid them \$7.25 per hour and later paid them bonuses to make up the difference. That led to overtime violations.

All told, 62 construction workers didn't get paid in accordance with the FLSA, and the DOL said the company owed \$374,493 in back wages and liquidated damages.

Deadline: 'Immediately'

Your state may have stricter requirements than the FLSA on getting final paychecks to employees.

Especially if your company fires someone, the pressure's on to produce that person's last check. For example, California, Colorado, Massachusetts, Missouri and Montana – among other states – say you need to deliver a final check immediately.

So, Payroll should be receiving a heads-up, whenever possible, regarding terminations.

More info: www.dol.gov/newsroom/releases/whd/whd20220803

I-9 flexibility ...

(continued from Page 1)

by Immigration and Customs Enforcement, investigators would be able to see whether an employer examined – and, if necessary, retained – documentation according to the alternative procedures.

The proposed rule spells out other possible changes coming your way:

1. To meet document retention requirements, you may be able to keep copies of documents presented remotely via video, fax or email.
2. DHS may add a training requirement to help employers detect fraudulent documents and avoid discrimination. One idea? Online training lasting 30 to 60 minutes.
3. There may be restrictions on who can use the alternative procedures – for example, only employers enrolled in E-Verify.

Employers and stakeholders can make comments on the proposed rule until Oct. 17, 2022.

More info: bit.ly/documents653

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.

■ DID EMPLOYEE HAVE TO PAY BACK OVERPAYMENT?

"I'm glad you caught that error in the payroll system," HR Manager Cheryl Jones said to Payroll Manager Pat Gray.

"I can't believe that data entry error with Lisa's hourly rate went back two years," said Pat. "Has she agreed to pay us for the overpayment yet?"

"Nope," Cheryl said. "And guess what. She just quit."

Pat gasped. "Now we're really going to have a hard time getting that money back."

Pay discrepancy form

"I know, and it gets worse," said Cheryl. "She's saying the Pay Discrepancy Acknowledgment Form that she and her manager signed when she started with us is the reason she's not paying us back."

"How so?" asked Pat. "We have new hires sign that form to comply with state law. It just says they agree to let us deduct money from their pay if there's an overpayment. But we didn't even try to deduct anything from Lisa's pay."

"She's insisting the form was an employment contract, but she and the CEO signed her actual employment agreement and it didn't mention overpayments or underpayments," explained Cheryl. "Anyway, she says the pay discrepancy form prevents us from bringing an unjust enrichment claim."

The company sued to recoup the money, and the employee fought back. Did the court rule in the employer's favor?

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

From: **HR MORNING**
Human Resources
KEEP UP TO DATE ON PAYROLL

EDITOR: JENNIFER WEISS
jweiss@HRMorning.com
MANAGING EDITOR: CURT BROWN
PRODUCTION EDITOR: P.J. FRONZEO
EDITORIAL DIRECTOR: CURT BROWN

Keep Up to Date on Payroll (ISSN 1076-3309), issue date September 15, 2022, Vol. 29 No. 653, is published semi-monthly except once in December (23 times a year).

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Regulatory changes to keep an eye on from the IRS – latest update

■ TIMELINE HELPS YOU PLAN FOR WHAT'S COMING YOUR WAY

Changes could come soon: The IRS and other regulatory agencies published their semiannual regulatory agendas in the *Federal Register* on Aug. 8, 2022.

Look over this timeline to get a better idea of what you can expect from the IRS and when.

Dates from the IRS

Imminently: While the IRS had said it planned to release a proposed rule on employer-provided meals and employer-provided eating facilities in the summer of 2022, we're still waiting on that.

The reg would clarify the income tax treatment of certain meals.

Imminently: This summer, the IRS also anticipated releasing a rule on two other fringe benefits – no-additional-cost service and qualified employee discount.

You'd have guidance on making exclusions from gross income.

Imminently: A final reg that would lower the electronic filing threshold from 250 to 100 returns was also expected in the summer of 2022.

You'd aggregate W-2s, 1099s and other forms to see if the new threshold applied to your company.

Imminently: De minimis errors on information returns would be eligible for an exception to penalties under a final reg slated for this summer. The safe harbor rules would focus on errors related to dollar amounts.

December 2022: Applicable large employers under the Affordable Care Act would have more time to furnish Forms 1095-C to employees, thanks to a final rule the IRS has in the works.

The annual deadline of January 31 has been repeatedly pushed back a month – the rule would make that extension permanent.

December 2022: One final rule would allow the IRS to recapture tax credits issued erroneously under two pandemic-related laws. Another final rule would permit the same action for a third law. The three laws are the:

- Families First Coronavirus Response Act
- Coronavirus Aid, Relief, and Economic Security Act, and
- American Rescue Plan Act.

More info: www.reginfo.gov/public/doleAgendaMain

Calculating back pay after suspension – what court said

After being placed on an unpaid suspension lasting much longer than average – four years, four months and 23 days to be exact – an employee was restored to his former position with a Texas municipality.

But how much back pay, if any, did the employer have to pay? That was the question a Texas appeals court recently considered.

Employed by Texas municipality

The case, *Butler v. City of Big Spring*, involved a firefighter. Under Texas Local Government Code, upon

being restored to his former position he was entitled to full compensation for the actual time lost.

The municipality didn't think it owed him *any* back pay, though. Reason? During his suspension he earned unemployment compensation and took other jobs, and as a result, he made more money than he would have in his firefighter position.

The court ruled back pay should be calculated based on any shortfalls he experienced during each pay period, not in the four-plus years as a whole.

More info: bit.ly/firefighter653

NEWS YOU CAN USE

■ INTEREST RATES GOING UP AGAIN IN FOURTH QUARTER

Ready for yet another hike in interest rates from the IRS? They're coming for the fourth quarter of 2022.

According to Revenue Ruling 2022-11, here's what to expect:

- 6% for overpayments (5% for corporations) – up from 5% and 4%, respectively
- 3.5% for the portion of an overpayment exceeding \$10,000 – up from 2.5%
- 6% for underpayments – up from 5%, and
- 8% for large corporate underpayments – up from 7%.

More info: www.irs.gov/pub/irs-drop/rr-22-11.pdf

■ IRS PROVIDES UPDATE ON 941 AND 941-X BACKLOG

According to an Aug. 24, 2022, IRS update, 4.6 million Forms 941 remained unprocessed. The IRS says it's opening returns sent by mail in the order received and is handling electronically filed forms, too.

As of the same date, 136,000 Forms 941-X still needed to be processed, the Service said.

So, there's more waiting ahead for many employers as the IRS continues to dig out from the backlog caused by COVID-19.

More info: bit.ly/backlog653

■ GETTING READY FOR ACA REPORTING THIS YEAR-END

You may want to let your IT team know the IRS has updated its info on Tax Year 2022 known issues, schemas and business rules for Affordable Care Act (ACA) reporting.

The technical guidance is needed to use the ACA Information Return (AIR) system for filing Forms 1094 and 1095 to the IRS.

More info: www.irs.gov/pub/irs-pdf/p5258.pdf

TEST YOUR KNOWLEDGE

■ Ready to send new hire reports to one state?

For child support purposes, your company may decide to submit the *Multistate Employer Registration Form for New Hire Reporting*.

Before you send your form to the Office of Child Support Enforcement (OCSE), test your knowledge by answering *True* or *False* to the following questions.

1. Your company must have employees in at least three states to submit the multistate employer registration form and then send new hire reports to only one state.
2. You can decide you no longer want to send new hire reports to a single state.
3. The OCSE gives you a choice about which one state to use for new hire reporting.
4. You must use email to submit your completed registration form to the OCSE.

ANSWERS

Answers to the quiz:

1. *False.* If you have employees in two or more states, you can submit the registration form. You also have the option of registering online.
 2. *True.* If you decide you don't want to send reports to just one state anymore or your status as a multistate employer changes, check the "No Longer a Multistate Employer" box on the registration form.
 3. *True.* The registration form lets you designate your reporting state. In addition, the form asks you to check the boxes for the states where you have more than one employee.
 4. *False.* Snail mail is an option, too.
- More info:** www.act.hhs.gov/sites/default/files/documents/ocse/mse_form.pdf

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.

Paid overtime for hours over 44 instead of 40

Employer: TruCare Connections, Rochester, NY.

Business: Home healthcare agency.

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

Type of violation: The employer paid aides straight time for hours worked up to 44 in a workweek, paying them time-and-a-half only for hours over that. In addition, TruCare Connections employed two 15-year-old workers as personal care aides and routinely had them work more than 18 hours per week during school weeks.

Penalty: \$228,379 in back wages for 260 employee – plus, a civil money penalty of \$3,640 for the child labor violations.

Government office: Dept. of Labor, Wage and Hour Division, Albany, NY, district office.

FL restaurant let minors work too many hours

Employer: American Pizza Empire LLC – operating as Marcos Pizza, Riverview, FL.

Business: Franchisee.

Law broken: Fair Labor Standards Act's child labor provisions.

Type of violation: Three 15-year-old employees worked later than 7 p.m. on school days and put in more than three hours per day and 18 hours per week. One minor was allowed to do hazardous tasks.

Penalty: \$7,950 civil money penalty.

Government office: Dept. of Labor,

Wage and Hour Division, Tampa, FL, district office.

Employer requiring use of tablet to clock in and out

Employer: La Canasta, Indianapolis

Business: Grocery store.

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

Type of violation: Failed to pay minimum wage and overtime to workers at three locations, instead paying them a fixed weekly rate to stock shelves, serve customers at meat counters and operate cash registers.

Penalty: \$92,326 in back wages and liquidated damages for 18 workers. The grocery store will require all employees to record their hours worked by clocking in and out on a tablet.

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

Wrong assumption about piece rate and overtime

Employer: C&E Stone Masonry LLC, Woods Cross, UT.

Business: Tile installation company.

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

Type of violation: The employer paid workers straight time rates when they worked over 40 hours, assuming that if it paid them using a piece rate, overtime wasn't due. C&E also failed to maintain records of hours worked.

Penalty: \$602,745 in back wages for 127 employees.

Government office: Dept. of Labor, Wage and Hour Division, Salt Lake City district office.

Tracking local laws and regs

■ Payroll Preparation Tax due in these 2 Pennsylvania cities

In two Pennsylvania cities, the Business Privilege Tax has been replaced with the Payroll Preparation Tax.

The cities and their rates for 2022 are:

- Hazleton – 0.26%, and
- Scranton – 0.2787%.

By way of background, locations that Pennsylvania has classified as financially distressed can opt to enact the Payroll Preparation Tax.

More info: www.hab-inc.com/ppt-faq

■ Which local income tax must be withheld for remote workers?

According to an Ohio law from 2020, when employees worked from home due to the COVID-19 emergency order, they had to be taxed based on their principal place of business. While HB 197 may have made withholding simpler for employers, for some employees who'd worked remotely before the pandemic, it meant higher local income tax rates.

Since 2020, lawsuits including

Schaad v. Alder have popped up challenging the constitutionality of the state law.

The employee in that case was subject to Cincinnati income tax and had to pay more tax than he did before the pandemic.

A state appeals court dismissed the individual's complaint in 2021, but recently the Supreme Court of Ohio agreed to hear the case.

More info: www.supremecourt.ohio.gov/Clerk/ecms/#/caseinfo/2022/0316

■ Ordinances in Downey and Los Angeles not in effect – yet

Earlier in 2022, two California cities each passed an ordinance establishing a minimum wage for healthcare workers.

But referendum petitions have put the ordinances on hold.

Downey's ordinance would have set the healthcare worker minimum wage at \$25 per hour as of Aug. 11, 2022.

After the city received the referendum petition, it automatically stayed the ordinance. Assuming the petition is verified, the city council

PRODUCTIVITY BOOSTERS

■ Free E-Verify webinar includes demonstration of program

You can attend a free webinar presented by U.S. Citizenship and Immigration Services to learn more about E-Verify.

For example, there's a webinar scheduled for Sept. 22, 2022, at 11 a.m. EDT.

It's called E-Verify Overview.

You can learn how E-Verify works and how to enroll. You'll see program highlights and be able to view a demonstration of the program.

More info: www.e-verify.gov/about-e-verify/e-verify-webinars

may repeal the ordinance or submit it to voters.

Meanwhile, in Los Angeles, an ordinance there would have taken effect Aug. 13, 2022, requiring employers to pay healthcare workers a minimum wage of \$25 per hour as of that date.

The ordinance has been suspended in the light of the referendum petition. If verified, voters will get to decide whether to adopt the ordinance.

More info: bit.ly/downey653, bit.ly/losangeles653

REAL PROBLEMS, REAL SOLUTIONS

We used Same Day ACH during the pandemic – and it's still a valued tool

Our university had been printing paper checks for employees whenever we encountered problems on payday.

That worked fine for our organization for years.

But then the pandemic hit.

Suddenly, Payroll folks couldn't get into the office to access the printer, let alone put a paper paycheck in someone's hands.

We had to come up with a quick solution for making emergency payments – and of course, the urgency of the situation extended beyond the university's Payroll Department.

For example, A/P needed a plan of

action right away, too, to make sure vendors got payments on time.

Staying current with rules

We knew about the ACH Network and had been hearing reports about Same Day ACH.

So, we did some research. At that time, two processing windows were available for same-day transactions (although since then, a third window has been added).

That's just what we needed.

We successfully got employees paid during the shut downs in 2020. In fact, various departments here at the

University of Kentucky have continued to use Same Day ACH even though the crunch time has passed.

With that in mind, we're committed to staying current with any changes from Nacha, like the Account Validation Rule of 2021.

The rule helped ensure accuracy and prevent fraud. It's rules like that which reassure us Same Day ACH isn't just convenient, it's safe.

(Adapted from Nacha, "Same Day ACH to the Rescue During – and After – COVID for the University of Kentucky," nacha.org, last accessed Aug. 24, 2022)

Coordinated efforts in 2022 turn up heat on wage and hour compliance

■ SO FAR THIS YEAR, 7 STATES HAVE SIGNED AGREEMENTS WITH FEDS

The Dept. of Labor's Wage and Hour Division (WHD) has its sights set on enforcement of the Fair Labor Standards Act and other laws.

One of its current methods? Signing a memorandum of understanding (MOU) with a state or local government agency.

These coordinated efforts often mean that employers have more training available but also that investigations are more likely.

Be prepared: One area requiring special caution? The misclassification of workers as independent contractors.

Already in 2022, the DOL has signed MOUs with seven states. Here's the list so far:

Developments this year

On Jan. 19, 2022, the WHD and North Carolina Dept. of Labor, Agricultural Safety and Health Bureau signed an MOU that, among other things, includes providing employers and employees with compliance assistance information.

In an MOU signed Feb. 11, 2022, with the New Hampshire Dept. of Labor and Workforce Development Agency, the WHD agreed to beef up enforcement activity by conducting joint investigations.

The MOU between the WHD and the Arkansas Dept. of Labor and Licensing, Division of Labor – signed March 17, 2022 – includes plans for outreach to employers and the sharing of resources.

On May 6, 2022 the WHD and the California Labor and Workforce Development Agency decided to share referrals of violations and other information as part of their MOU.

The Vermont Dept. of Labor's MOU was signed May 10, 2022 – one priority being conducting coordinated investigations with the WHD.

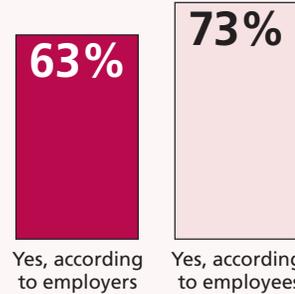
On July 5, 2022, the WHD and the New York State Dept. of Labor, Division of Immigrant Policies and Affairs agreed to conduct joint investigations under their MOU.

Nevada's Dept. of Employment, Training and Rehabilitation,

WHAT PAYROLL PROS TOLD US

Productivity

If you updated benefits for employees who switched to remote work, did productivity improve?



Source: 2022 Paychex survey of 1,060 professionals

For someone who's now working remotely, some benefits may not matter as much (office coffee or day care) while others may matter more (flexible working hours).

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

Employment Security Division said it'd share training materials and information when it signed an MOU with the WHD on July 8, 2022.

Many other states have agreements in place that took effect in prior years.

More info: www.dol.gov/agencies/whd/about/state-coordination

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

Yes, the court ruled in the employer's favor.

The problems started with a data entry error in the payroll system. An hourly rate that was too high had been entered in the payroll system, and the overpayment went undetected for two years.

The employee and the company's CEO had signed an employment agreement which contained no provision for overpayments or underpayments.

As for the pay discrepancy form that she and her manager signed, that didn't serve as a contract even though the employee insisted that it did.

First of all, it was an onboarding form she had to sign acknowledging an HR policy. Also, the form was based on a state law which dealt with employers making deductions from employees' pay to recover overpayments.

So, there was nothing stopping the employer from

bringing an unjust enrichment claim to recoup the wages that'd been overpaid, the court said.

Analysis: Getting employees' written permission

Your company may have employees sign a pay discrepancy acknowledgment form or a similar document when they're hired. In many states, you can't deduct from an employee's pay to recoup an overpayment unless you have written permission to do so.

If you discover that an overpayment has occurred, you may want to remind that they signed the form and may be required to give them a heads-up.

Also remember, it's important to periodically verify that your form is current with updates in state law. For example, a state law may specify that a deduction can't exceed a certain percentage of gross wages – and that percentage could change.

Cite: *Covenant Medical Center Inc. v. Bagley*, 2:21-CV-11221-TGB-DRG, U.S. D.C., E.D. Michigan, Southern Division, 8/24/22. Note: Dramatized for effect.

Industry news you can use

■ Fewer notifications required before garnishing wages

SB 1302 changes the notification requirements for the Oklahoma Tax Commission before it can garnish the wages of a state employee.

Three notifications no longer need to be sent to a state employee who's out of compliance with state income tax laws.

More info: bit.ly/oklahoma653

■ Court: State's paid sick leave law preempted by federal law

A Ninth Circuit Court of Appeals ruling from July 26, 2022, sheds light on whether employers must provide paid sick leave to railroad employees according to the requirement of California law.

In *Amtrak v. Su*, the court said the federal Railroad Unemployment Insurance Act (RUIA) preempts the state's Healthy Workplaces, Healthy Families Act.

The RUIA prohibits railroad

employees from having any right to "sickness benefits" under state laws.

More info: bit.ly/railroad653

■ Don't want Type 2 EEO-1 report made public? Submit objection

Federal contractors that don't want their EEO-1 data made public need to act fast.

Affected employers have until Sept. 19, 2022, to submit written objections to the Dept. of Labor's Office of Federal Contract Compliance Programs (OFCCP).

In a recent *Federal Register* notice, the OFCCP explained it'd received a Freedom of Information Act request for Type 2 EEO-1 reports filed by federal contractors from 2016-2020.

Note: The Type 2 EEO-1 report contains aggregated data on employee demographics, and it's categorized by race/ethnicity, sex and job category. This data has been requested by the Center for Investigative Reporting.

More info: *Federal Register*, 8/19/22.

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:

Are amounts offered under leave-sharing plan wages?

Q: We're getting ready to set up a leave-sharing plan to help employees who have medical emergencies. Would the donated amounts be considered wages?

A: For employees who donate their leave under your plan, the amounts aren't wages. But for recipients of leave used for medical emergencies, they are. So, you'd include the amounts in the recipient's gross income and withhold FICA, FUTA and

federal income taxes. Remember, these rules apply for plans that allow employees to transfer paid time off to a leave bank for medical emergencies. You'll need to follow separate rules for plans that allow employees to transfer leave to co-workers who've been adversely affected by a major disaster. According to IRS guidance on this type of leave, amounts donated to an employer-sponsored leave bank wouldn't be considered wages provided that payments made to recipients are treated as wages.

More info: www.irs.gov/pub/irs-pdf/p15a.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 forms, instructions and other publications contains Payroll-related updates.

- Publication 1586, *Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/ TINs*. Revised July 2022. Posted 7/21/22.
- Publication 5258, *Guide for Affordable Care Act Information Returns Submission*. Revised July 2022. Posted 7/22/22.
- Publication 4810, *Specifications for Electronic Filing of Form 8955-SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits*. Revised July 2022. Posted 7/25/22.
- Publication 1141, *General Rules and Specifications for Substitute Forms W-2 and W-3*. Revised August 2022. Posted 8/2/22.
- Instructions for Form 720, *Quarterly Federal Excise Tax Return*. Revised September 2022. Posted 8/4/22.
- Publication 5084, *Congressional Update*. Revised August 2022. Posted 8/4/22.
- Form 4810, *Request for Prompt Assessment Under Internal Revenue Code Section 6501(d)*. Revised August 2022. Posted 8/24/22.
- Publication 1136, *Statistics of Income Bulletin*. Revised August 2022. Posted 8/24/22.

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

- **MINIMUM WAGE:** Employers in the state will need to pay at least \$15.50 per hour starting Jan. 1, 2023. That's up from the current minimum wage rate of \$15 per hour. **More info:** bit.ly/california653

COLORADO

- **PAID SICK LEAVE:** The Dept. of Labor and Employment recently clarified that employers don't need to provide public health emergency (PHE) leave related to monkeypox. Reason: The current strain of monkeypox isn't "highly fatal," as required for a federal public health emergency to be declared, the agency said. However, an employee may qualify to take accrued paid sick leave – which is different from PHE leave – for health needs related to monkeypox. **More info:** cdle.colorado.gov/hfwa

MASSACHUSETTS

- **RECORDKEEPING:** The Dept. of Revenue has proposed regs that pertain to nonresident employees. The proposed regs say if you withhold income tax for these employees based on workdays they spend in and out of the state, payroll and attendance records must accurately reflect their work locations. You could also use other reasonable methods to determine where their time is spent, such as getting certification from them. **More info:** bit.ly/massachusetts653

NEBRASKA

- **CHILD LABOR:** LB 780 changes the requirements for employers

that hire minors. For example, now, instead of needing two lists of all the minors employed in the building, your company needs only one list – and it doesn't need to be posted near the main entrance. Also, at the time of the minor's termination, your company still must transmit the employment certificate to the person who authorized it and now must also turn over the certificate to the minor upon demand. **More info:** bit.ly/nebraska653

NEW YORK

- **UI CONTRIBUTIONS:** To help pay back the \$9.2 billion unemployment insurance (UI) trust fund loan the state took out with the federal government, employers will owe an annual Interest Assessment Surcharge (IAS) on the federal loan. As of July 2022, the IAS rate will be 0.23% or about \$27.60 per employee. **More info:** dol.ny.gov/ias
- **WAGE THEFT:** The New York State Dept. of Labor has set up a new hotline for employees. They can call 833-910-4378 to report wage theft, the agency said. In addition, the state has started to develop the Worker Protection Management System, anticipating that by 2023 workers will be able to report claims online. **More info:** on.ny.gov/3AF81D0

PENNSYLVANIA

- **DIRECT DEPOSIT:** A bill has been introduced that'd allow you to pay all wages due to an employee via direct deposit or – if an employee doesn't designate a financial institution – via paycard. Employers would still need to provide clear and conspicuous notice employees. That can be done in writing or electronically. The American Payroll Association recently submitted a letter to the Pennsylvania House Labor and Industry Committee, voicing support for HB 1762.

More info: openstates.org/pal/bills/2021-2022/HB1762

VERMONT

- **TOPIC:** HB 477 says that when an employee is an alleged victim and that person has a right or an obligation to appear at a deposition or a court proceeding, unpaid leave must be provided. The term "alleged victim" can include certain family members, including minors, according to the bill's definitions. **More info:** legislature.vermont.gov/bill/status/2022/H.477

WASHINGTON

- **TAXABLE WAGE BASE:** More of each employee's wages will go toward unemployment insurance tax next year. For 2023, the taxable wage base is going up to \$67,600. In 2022, it's \$62,500 **More info:** esd.wa.gov/newsroom/2021-average-annual-wage

THE LIGHTER SIDE

You're vigilant to protect the assets entrusted to you in Payroll. But have you ever considered hiring a cat to assist you? A calico named Bandit might be able to help.

She prevented a robbery at her home in Mississippi recently. When two men tried to break in during the middle of night, she sprang to action.

After her meows from the kitchen didn't get her owner out of bed, she ran into his bedroom, hopped on his bed, pulled at his comforter and clawed at his arm.

Checking things out, he went downstairs, and the men outside his back door fled. The situation ended peacefully, and now, Bandit is rightfully being called a "guard cat."

Cite: AP, "'Guard cat' Credited with Preventing Would-be Robbery," 8/2/22