

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 TM

July 1, 2024

UPCOMING DEADLINES

Use this checklist to help ensure your deposits of Social Security, Medicare and withheld income taxes are timely remitted to the IRS.

■ SEMIWEEKLY DEPOSITORS

- **July 3, 2024:** Deposit taxes for payroll on June 26, 27, 28.
- **July 8, 2024:** Deposit taxes for payroll on June 29, 30 for Q2.
- **July 8, 2024:** Deposit taxes for payroll on July 1, 2 for Q3.
- **July 10, 2024:** Deposit taxes for payroll on July 3, 4, 5.
- **July 12, 2024:** Deposit taxes for payroll on July 6, 7, 8, 9.
- **July 17, 2024:** Deposit taxes for payroll on July 10, 11, 12.
- **July 19, 2024:** Deposit taxes for payroll on July 13, 14, 15, 16.
- **July 24, 2024:** Deposit taxes for payroll on July 17, 18, 19.

■ MONTHLY DEPOSITORS

- **July 15, 2024:** Deposit taxes for payments made during June 2024.
- **Aug. 15, 2024:** Deposit taxes for payments made during July 2024.

■ ALL EMPLOYERS

- **July 31, 2024:** File Form 941 for Q2. Note: If you properly deposited taxes on time and in full, you have until Aug. 12, 2024, to file.

SSA updated wage reporting community at spring meeting

■ Info provided on Form W-2 and BSO

During its Spring Wage Reporting Community Meeting, SSA provided practical information for Payroll practitioners and others.

SSA conducted the online meeting June 13, 2024, covering Form W-2 and additional topics. Here's a recap.

Changes to note

SSA discussed some of the methods Payroll pros can use to file Forms W-2 including W-2/W-2C Online and Wage File Upload.

SSA went into detail on a pilot program it's currently running for W-2/W-2C Online. For example:

- With the new functionality, users can access all the codes and their descriptions for box 12.

- If participants want to file a W-2C, there's a list of yes or no questions. Users will move forward based on the answers.
- The modernized application also clearly distinguishes between copies of Form W-2C that are unsubmitted and those actually submitted.

As for Wage File Upload, SSA wanted users to be aware that the application doesn't allow you to print copies of W-2s. If you'd like to print such copies, you'll need to go back into your payroll software application.

Next, SSA said it's streamlining the process for signing into Business Services Online (BSO). Currently,

(Please see SSA ... on Page 2)

What's needed for Retirement Savings Lost and Found?

The Dept. of Labor (DOL) aims to gather information from retirement plan administrators, according to its proposed guidance implementing the Retirement Savings Lost and Found database.

But at least one business association, the ERISA Industry Committee (ERIC), says it's more information than necessary.

Deadline is December 2024

The Secure 2.0 Act directed the DOL's Employee Benefits Security Administration to create an online search tool so missing participants could locate their retirement benefits.

The deadline to get the database up and running is Dec. 29, 2024.

In its comments to the DOL, ERIC pointed out the Secure 2.0 Act required limited information such as the administrator's name and address. The DOL has expanded that, asking for the name, employer identification number and contact information of the plan sponsor reflected on the most recent Form 5500 – and much more.

While the association supports the database itself, it has asked the DOL to redraft its proposed guidance, seeking data within the law's scope.

More info: eric.org

Company violated anti-retaliation provisions of both OSHA and FLSA

■ IT AGREED TO PAY \$753,500 AND TAKE CORRECTIVE ACTIONS

Sometimes when investigators find problems with one law, problems with other laws surface, too – and the situation can snowball. Here’s a recent example:

The Dept. of Labor (DOL) sued three Rhode Island nail salons – New VIP Nail Spa Inc., VIP Neo Nails Inc. and VIP Spa & Nails Inc. – all owned by the same individual.

The trouble got started when one employee brought a health and safety complaint to management – specifically, she was sickened by an undiluted sanitizer. The employee also raised her concerns with federal regulators. After that, the employer fired her. Plus, it threatened her and another employee with whom she had a close relationship.

In addition to the Occupational Safety and Health Act (OSHA)

violations, the DOL found Fair Labor Standards Act (FLSA) violations. The company missed the mark with the FLSA’s overtime and recordkeeping provisions. Then, it made employees sign documents with false info about their employment.

A payroll monitor

As part of a consent agreement, the company had to:

- pay \$191,500 related to the OSHA
- pay \$562,000 related to the FLSA
- provide anti-retaliation training
- post workplace notices in English, Spanish and Korean
- hire an independent safety consultant, and
- hire a payroll monitor for two years to evaluate FLSA compliance.

More info: tinyurl.com/nails694

SSA ...

(continued from Page 1)

people can sign in with their login.gov or id.me credentials. The third option – using credentials for a Social Security online account created before Sept. 18, 2021 – will be phased out to enhance security and identity protection. In fact, while employers can still use those credentials to access BSO, they stopped working for other SSA services as of June 22, 2024.

In addition, SSA plans to roll out a new registration and authorization process that’ll require employers to designate a responsible entity officer (REO) – the REO will decide who has access to BSO services on the organization’s behalf. This change won’t take place until at least 2025, SSA said.

A final update involving BSO: The customer support hours are slightly shorter now. The hours on Monday through Friday had been 7:00 a.m. 7:00 p.m. ET. Now, they’re 7:00 a.m. to 5:30 p.m. ET.

More info: www.ssa.gov/employer

COMPLIANCE CHECK

■ LAID OFF WORKERS DIDN’T RECEIVE FINAL PAYCHECKS

Ben’s Creek Operations WV LLC, a coal mining company in Matewan, WV, laid off 44 workers, and five days later, the company filed for Chapter 11 bankruptcy. After that, it failed to pay final paychecks to the workers.

The Dept. of Labor Office of Solicitor issued a restraining order so that the company could no longer sell or move coal until it paid \$175,000 in back wages.

More info: www.dol.gov/newsroom/releases/whd/whd20240528

■ OVERTIME, RECORDKEEPING PROBLEMS DISCOVERED

LJ2 Investments LLC, operating as Jasso Express, Pharr, TX, failed to pay time-and-a-half the regular rate of pay to 46 catering service workers. In addition, the food trucks failed to keep records.

These Fair Labor Standards Act violations meant the employer had to pay:

- \$78,664 in back wages, and
- \$78,664 in liquidated damages.

More info: www.dol.gov/newsroom/releases/whd/whd20240606

■ RESTAURANT POCKETED PART OF EMPLOYEES’ TIPS

Crackin’ Crab, a seafood restaurant in Albuquerque, NM, kept part of tips employees had earned. As a result, the restaurant invalidated its tip credit and failed to pay minimum wage. The employer also failed to pay the overtime premium for hours worked over 40 in a workweek.

The restaurant owed:

- \$616 in civil money penalties
- \$126,818 in back wages, and
- \$126,818 in liquidated damages.

More info: www.dol.gov/newsroom/releases/whd/whd20240610-0

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Final rule: Higher penalties for I-9 paperwork violations and more

■ DEPT. OF JUSTICE RELEASED
2024 DOLLAR AMOUNTS

Penalties related to Form I-9 have increased, due to a final rule posted in the *Federal Register*.

The Dept. of Justice (DOJ) issued the final rule on Feb. 12, 2024, and the new rates took effect the same day.

The rates have been updated for inflation, the DOJ explained.

Ranges provided

Here are the amounts:

For *employing an unauthorized alien, first order*, the minimum penalty is \$698 and the maximum is \$5,579.

For *employing an unauthorized alien, second order*, the minimum is \$5,579 and the maximum is \$13,946.

For *employing an unauthorized alien, subsequent orders*, the minimum is \$8,369, and the max is \$27,894.

In the case of *paperwork violations*, the range is \$281 to \$2,789 per relevant individual.

The penalties for *document fraud* are broken into two groups.

Group one is based on USC 1324c(a)(1)–(4) and covers:

- making forged, counterfeited or altered documents
- using, attempting to use, providing or attempting to provide such documents forged documents
- using or providing a document lawfully issued to a person other than the possessor, and
- accepting or receiving a document lawfully issued to a person other than the possessor.

The penalty range for a first order is \$575 to \$4,610 – for subsequent orders it's \$4,610 to \$11,524.

Group two is based on USC 1324c(a)(5)–(6) and covers:

- preparing or filing a required document knowing it was falsely made, and
- not producing required documents.

The penalty range for a first order \$487 to \$3,887 – for subsequent orders it's \$3,887 to \$9,718.

For *failing to notify an employee* that his or her employment eligibility hasn't been confirmed, the minimum penalty is \$973 – the maximum is \$1,942.

More info: www.govinfo.gov/content/pkg/FR-2024-02-12/pdf/2024-02829.pdf

IRS dives into the details of educational assistance

The IRS released a new fact sheet clarifying what's required of employers that offer educational assistance programs.

Fact Sheet 2024-21 was released in June 2024. Under a Sec. 127 educational assistance program, an employer can offer an employee up to \$5,250 per year. This can be for tuition, fees and other expenses.

Up to \$5,250 annually

The fact sheet explains that in the case of an employee seeking reimbursement for educational

expenses, an employer must make the reimbursement in the same calendar year as the employee pays the expenses.

An employer can make payments of principal or interest on a qualified education loan for amounts incurred in an earlier calendar year or even prior to employment. The payments can go to the loan servicer or directly to the employee.

No matter how the benefit is paid, it shouldn't be included in wages.

More info: www.irs.gov/newsroom/frequently-asked-questions-about-educational-assistance-programs

NEWS YOU CAN USE

■ MORE FORMS CAN BE FILED THROUGH IRIS SYSTEM

During its June Information Returns Intake System (IRIS) Working Group Meeting, the IRS noted that 13 new forms will be accepted through its Taxpayer Portal. The date IRIS will add the forms? July 1, 2024. They include:

- Form 1098-F, *Fines, Penalties and Other Amounts*
- Form 3921, *Exercise of an Incentive Stock Option Under Section 422(b)*, and
- 5498 IRA Contribution Information.

More info: www.irs.gov/filing/e-file-forms-1099-with-iris

■ APPEALS COURT LETS DOL'S MINIMUM WAGE RULE STAND

After the Dept. of Labor (DOL) promulgated a rule based on Executive Order 14026, federal contractors had to pay employees at least \$15 per hour (it's now \$17.20).

In addition, the DOL rule rescinded an exemption for workers providing seasonal recreational services on federal lands. Did the DOL lack statutory authority to do that? Arkansas Valley Adventures and others said it did when they filed a lawsuit against the agency. But the Tenth Circuit Court of Appeals recently ruled in favor of the government.

More info: www.ca10.uscourts.gov/opinion/22-1023

■ DISTRIBUTION OPTIONS UNCLEAR, REPORT SHOWS

About 40% of all eligible 401(k) participants don't understand the tax consequences of their distribution options, according to a new report from the Government Accountability Office.

Federal agencies should take steps to improve participants' understanding. For example, the IRS could rewrite the Model 402(f) Notice, the report said.

More info: www.gao.gov/reports-testimonies

Survey provides data on employee mental health: Insights for 2024

■ IMPLEMENTING BEST PRACTICES
RAISES EMPLOYEE ENGAGEMENT

An annual survey from Gallup was released in June 2024.

State of the Global Workplace 2024 Report asked employees how they felt about their work and their lives.

The survey focused on three areas: employee mental health; the impact of economics and policy; and the role that managers play.

Here's a closer look.

Loneliness, stress, anger

Gallup talked to participants about their mental health, specifically asking if they had experienced emotions like loneliness, stress, anger, sadness and worry "a lot of the day yesterday."

When it came to loneliness, for example, 20% of people overall answered yes.

Employees under age 35 were more likely to feel lonely than employees 35 or older – 22% vs. 19%.

Working from home was also an indicator, with 25% of people who always worked remotely reporting

feelings of loneliness and 16% of those who never worked remotely answering in the affirmative when questioned about loneliness.

Next, the 2024 global survey looked at economics and policy. One area of focus was the existence of labor laws – e.g., laws related to wages, discrimination, paid leave and safety – and how specific types of labor laws affect employee well-being.

In countries with labor laws aimed at safe work, family responsibilities and working hours, employees had less stress. Laws focused on wages, safe work, family responsibilities and maternity equated to reduced loneliness for employees.

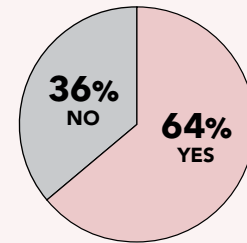
Finally, the *State of the Global Workplace 2024 Report* showed that when organizations implement best practices – such as putting a high priority on manager hiring and development – employee engagement increases dramatically (from 23% to 70%).

Also, managers (30%) are more likely than non-managers (18%) to be engaged at work. When it comes to stress, role isn't a determining factor,

WHAT PAYROLL PROS TOLD US

Independent Contractors

Does your company plan to increase its use of contract professionals?



Source: Robert Half's 2024 Salary Guide

Misclassifying workers as independent contractors can cause headaches down the road. To get a determination from the IRS for tax purposes, you can use Form SS-8.

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

with 41% of managers and 40% of non-managers saying they experience that emotion on a daily basis. The emotion with the biggest gap between managers and non-managers was anger – 24% and 19%, respectively.

More info: www.gallup.com/workplace/349484/state-of-the-global-workplace.aspx

REAL-LIFE SCENARIO: DID THEY GET IT RIGHT?

After 4 months on the job, employees brought minimum wage and OT lawsuit

A Missouri company providing residential cleaning services faced this real-life scenario:

Two maid associates, who worked for the employer during a four-month period in 2023 and then quit, believed they hadn't been paid minimum wage and overtime as required under state and federal law. They decided to sue.

According to the employees, the company was supposed to pay them on an hourly basis at a rate of \$19 per hour.

One of the maid associates complained that on four occasions her hourly rate had been reduced

from \$19 to \$16 for attendance issues or a customer complaint. The other employee said the company twice dropped her rate to \$15 per hour.

Furthermore, they cited an example of the employer allocating three hours to clean one house and paying an employee accordingly, while the cleaning job actually took five hours to complete. Problem was, the example didn't specify who the employee was and if it was even one of them.

Their case fell flat under both the Missouri Minimum Wage Law and the Fair Labor Standards Act. In 2023, the hourly minimum wage rates under state and federal laws were \$12 and

\$7.25, respectively – and state and federal laws used the same overtime formula. The main weakness of the employees' claims was this: They didn't provide even a rough estimate of their hours worked. Without that, their minimum wage and overtime rates couldn't be calculated.

Checklist for compliance

- Employers that choose to pay employees on a piece-rate basis still need to calculate their hourly rate for compliance purposes.
- Make sure your company and employees are on the same page regarding their pay basis.

Tracking local laws and regs

■ New minimum wage rules take effect in Renton, WA

The city of Renton, WA, has passed a final rule, making the voter-initiated minimum wage increase official.

As of July 1, 2024, large employers will need to pay at least \$20.29 per hour and midsize employers will need to pay at least \$18.29.

More info: tinyurl.com/renton694

■ Rules on two types of Chicago leave with July 1 effective date

Chicago Dept. of Business Affairs and Consumer Protection has released *Chicago Paid Leave and Paid Sick and Safe Leave Rules Supporting Article II of Title 6*.

Employers will find a bit more clarity regarding the new requirements which have a July 1, 2024, effective date. For example, instead of using an accrual system, an employer can front-load 40 hours of paid leave and 40 hours of paid sick and safe leave (or choose to front-load only one

type of leave). The rules state that front-loading paid leave means an employer doesn't have to follow the requirements of accrual and carryover. However, front-loading paid sick and safe leave is different – while the requirements of accrual don't have to be followed, the rules of carryover do.

More info: tinyurl.com/chicago694

■ Following storms, IRS provides tax relief for 6 Nebraska counties

Businesses in several Nebraska counties – Boone, Douglas, Greeley, Howard, Sherman and Washington – have extra time to file quarterly payroll and excise tax returns. That's due to the severe storms, straight-line winds and tornadoes that began on April 25, 2024. Returns normally due on April 30, 2024, and July 31, 2024, are now due by Sept. 3, 2024.

Also, tax deposits due on or after April 25, 2024, will be abated if the deposits are made by May 10, 2024.

More info: www.irs.gov/newsroom/tax-relief-in-disaster-situations

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.

If we complete Form W-2C, is it necessary to submit it to SSA?

Q: If we need to make corrections to Form W-2, is sending a copy of the form to SSA always required?

A: SSA fielded questions regarding Form W-2C during its Spring Wage Reporting Community Meeting. Depending on the box or boxes you're fixing, you may not need to file Form W-2C with SSA. Specifically, the agency said employers don't need to submit the W-2C with

SSA if they're correcting only boxes 14-20. They do, however, need to provide a copy of the corrected form to the affected employee in the case of changes to boxes 14-20, SSA added. That's so that individuals have accurate info when preparing their personal tax forms for the IRS. Remember: When you send Form W-2C to SSA, be sure to use the same method – i.e., electronic or paper – as you used for Form W-2. Also, check with your state and local agencies regarding their requirements.

More info: www.irs.gov/instructions/iw2w3

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

RECENT CHANGES TO FEDERAL FORMS AND PUBLICATIONS

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

- Publication 4557, *Safeguarding Taxpayer Data A Guide for Your Business*. Revision date: May 2024. Posted date: 5/30/24.
- Publication 1239, *Specifications for Electronic Filing of Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips*. Revision date: April 2024. Posted date: 5/31/24.
- Publication 5084, *Congressional Update*. Revision date: June 2024. Posted date: 6/4/24.
- Publication 5286, *National Taxpayer Advocate 2024 Purple Book: Compilation of Legislative Recommendations to Strengthen Taxpayer Rights and Improve Tax Administration*. Revision date: December 2023. Posted date: 6/5/24.
- Publication 5249, *Fingerprint Card Instructions For Voluntary Certification of Professional Employer Organizations*. Revision date: January 2024. Posted date: 6/6/24.
- Form 720, *Quarterly Federal Excise Tax Return*. Revision date: June 2024. Posted date: 6/6/24.
- Publication 5904, *IRS Business Tax Account*. Revision date: March 2024. Posted date: 6/6/24.

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!

IOWA

- **WITHHOLDING:** The Dept. of Revenue (DOR) has issued revised instructions for withholding. Previously, the DOR said if an employee didn't file an updated W-4 using the 2024 IA W-4, an employer should use \$40 as the total allowance amount and \$0 as the additional withholding amount. Now, the DOR says employers have two options. One is to wait for an anticipated 2024 IA W-4. The other is to rely on past-year versions of the state W-4 and following specific modifications. **More info:** tax.iowa.gov/newsroom

MINNESOTA

- **INDEPENDENT CONTRACTORS:** An amended law has raised the penalty for misclassifying workers as independent contractors, as of July 1, 2024. HF 5247 increased the penalty is \$10,000 for each misclassified person. Plus, compensatory damages may include – but aren't limited to – the value of minimum wage, overtime, shift differentials and paid time off. Another change included in the bill: An owner, partner, principal, member, officer or agent can be held individually liable for knowingly and repeatedly misclassifying employees. **More info:** www.revisor.mn.gov/laws/2024/0/Session+Law/Chapter/127

NEVADA

- **MINIMUM WAGE:** Starting July 1, 2024, the minimum wage is increasing to \$12 per hour for all Nevada employees. Last year, under the state's two-tiered system, employers with health insurance

paid at least \$10.25 per hour and those without health insurance paid at least \$11.25 per hour. The two-tiered minimum wage system has been eliminated due to a ballot question posed to voters in November 2022. **More info:** tinyurl.com/nevada694

NEW YORK

- **PAID BREAKS:** The New York Dept. of Labor has updated a notice that must be provided to new hires as well as to all employees on an annual basis. The notice is *Policy on the Rights of Employees to Express Breast Milk in the Workplace*. The notice explains that as of June 19, 2024, employees have the right to paid break time so they can express breast milk in the workplace – previously, the law required unpaid breaks. The change affects employers regardless of size or the industry. The notice is available from the state in English and 16 other languages. **More info:** dol.ny.gov

OREGON

- **GARNISHMENTS:** Currently, if you receive a garnishment for an employee (not including child support), that person's net disposable earnings can't go below \$254 for a pay period of one week or less. Due to SB 1595, that amount will increase as follows: \$305 on Jan. 1, 2025; \$338 on July 1, 2025; and \$400 on July 1, 2026. The legislation spells out the exempt amounts for other pay frequencies. For example, for a biweekly pay period, the current exempt amount is \$509. That'll increase to \$611, \$675 and \$832 on the same dates noted above. **More info:** olis.oregonlegislature.gov/liz/2024R1/Measures/Overview/SB1595
- **MINIMUM WAGE:** The Bureau of Labor and Industries has increased the standard minimum wage rate to \$14.70 per hour (up from \$14.20).

The new rate for nonurban counties is \$13.70 (was \$13.20), and the Portland Metro Area rate is \$15.95 (was \$15.45). The effective date for the changes is July 1, 2024. **More info:** www.oregon.gov/boli/employers/Documents/BOLI_Printable_MinWage.pdf

SOUTH CAROLINA

- **EARNED WAGE ACCESS:** SB 700 sets requirements for earned wage access (EWA) service providers. For one thing, they must be registered with the Department of Consumer Affairs. Also, the provider must offer employees at least one reasonable option for obtaining proceeds at no cost, and the provider must clearly explain how employees can elect the no-cost option. As indicated in the legislations, EWA amounts aren't considered consumer loans. **More info:** legiscan.com/SC/drafts/S0700/2023

THE LIGHTER SIDE

When Anna Lee Dozier picked up a vase at a thrift store in Maryland, she thought it looked "old-ish."

Later, she found out just how right she was.

On a work trip to Mexico, she noticed some items at the Museum of Anthropology that bore a striking resemblance to the vase she'd purchased earlier in the year.

Taking the advice of a museum official, she contacted the Mexican embassy upon returning home.

Turned out, the vase was a 2,000-year-old artifact.

Dozier eventually presented the Mayan treasure in a ceremony at the Cultural Institute of Mexico. And to think, she'd bought the valuable vase for a mere \$3.99.

Cite: UPI, "\$3.99 Thrift Store Find Turns Out to be Nearly 2,000-year-old Mayan Vase," 6/18/24