

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™

September 15, 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

- **Sept. 18, 2024:** Deposit taxes for payroll on Sept. 11, 12, 13.
- **Sept. 20, 2024:** Deposit taxes for payroll on Sept. 14, 15, 16, 17.
- **Sept. 25, 2024:** Deposit taxes for payroll on Sept. 18, 19, 20.
- **Sept. 27, 2024:** Deposit taxes for payroll on Sept. 21, 22, 23, 24.
- **Oct. 2, 2024:** Deposit taxes for payroll on Sept. 25, 26, 27.
- **Oct. 4, 2024:** Deposit taxes for payroll on Sept. 28, 29, 30 for Q3.
- **Oct. 4, 2024:** Deposit taxes for payroll on Oct. 1 for Q4.
- **Oct. 9, 2024:** Deposit taxes for payroll on Oct. 2, 3, 4.

### ■ MONTHLY DEPOSITORS

- **Sept. 16, 2024:** Deposit taxes for payments made during August 2024.
- **Oct. 15, 2024:** Deposit taxes for payments made during September 2024.

### ■ ALL EMPLOYERS

- **Oct. 31, 2024:** File Form 941 for Q3. Note: If you properly deposited taxes on time and in full, you have until Nov. 12, 2024, to file.

## FY 2025 per diem rates will increase – here's how much

■ Plus, fewer locations will be non-standard areas

Federal per diem rates have been released for fiscal year 2025. In a recent notice, the General Services Administration (GSA) updated its rates for business travel occurring between Oct. 1, 2024, and Sept. 30, 2025.

These rates can be used to reimburse employees for expenses incurred when traveling within the continental United States (CONUS). Note: That includes the 48 contiguous states and the District of Columbia.

Using the federal per diem rates is less of a headache than asking employees to substantiate each and every expense.

By tracking what's changed for FY 2025, Payroll can help ensure that expense reimbursement for

business travel doesn't "take a wrong turn" and become taxable income by exceeding the applicable limits.

### Changes in October

The standard per diem rate can be used in most locations in the CONUS. Currently, it's \$166, and it'll increase to \$178, starting Oct. 1, 2024. That breaks down as follows:

- \$110 per day for lodging, up from \$107, and
- \$68 per day for meals and incidental expenses (M&IE), up from \$59.

In some locations of the CONUS, higher rates can be used – the GSA determined there will be 296 of these

*(Please see Per diem ... on Page 2)*

## Federal circuit court strikes down DOL's rule on tip credit

Under what circumstances can employers claim the tip credit for tipped employees?

In October 2021, the Dept. of Labor (DOL) finalized a rule, putting its 80/20 guidance back into effect (it's been on-again, off-again since 1988).

Once the rule kicked in on Dec. 28, 2021, employers were restricted to using the tip credit only when at least 80% of a tipped employee's time was spent on tipped activities and up to 20% was spent on non-tipped activities.

But on Aug. 23, 2024, the Fifth Circuit Court of Appeals struck down the DOL's final rule. It ruled in favor

of two employer associations that had sued the DOL.

### Not in accordance with the law

As the appeals court explained, the Fair Labor Standards Act (FLSA) says the tip credit may be taken when an employee customarily and regularly receives more than \$30 a month in tips. It doesn't mention anything about the duties that make up the occupation being individually tip-producing.

Therefore, the DOL's rule wasn't in accordance with the FLSA and had to be set aside, the court said.

More info: [tinyurl.com/tips699](https://tinyurl.com/tips699)

## \$45K owed after company violates overtime and recordkeeping rules

■ EMPLOYER MUST IMPLEMENT ELECTRONIC SYSTEM, TOO

When employees at a Michigan restaurant and bar worked more than 40 hours in a workweek, their employer paid them straight time “off the books.”

In so doing, Old Woodward Ventures LLC, operating as Luxe Bar & Grill, violated the overtime and recordkeeping provisions of the Fair Labor Standards Act.

So, the Troy, MI, employer owed \$45,428 to 11 servers. That represented:

- \$22,714 in back wages, and
- \$22,714 in liquidated damages.

In addition, Luxe Bar & Grill had to pay \$4,570 in civil money penalties.

### Accurate time and payroll records

As part of a consent order and judgment, the company also agreed to

implement and maintain an electronic system that keeps accurate time and payroll records. The agreement specifies the system must log wages, tips, hours worked and bonuses on a workweek basis for each employee.

Furthermore, the system must have the capability to record:

- a description of the work performed by each employee
- each employee’s overtime wages for all hours worked over 40 in workweek, and
- bonus amounts and the reasons the employer paid any bonus.

Finally, according to the consent order and agreement, the system must be backed up onto a secure storage platform every day.

**More info:** [www.dol.gov/newsroom/releases/sol/sol20240808](http://www.dol.gov/newsroom/releases/sol/sol20240808)

### Per diem ...

(continued from Page 1)

non-standard areas (NSAs) in the next fiscal year. That’s decreasing from the current number of 302.

No counties will be moving into the NSA category.

However, a handful of locations that have been NSAs will be returning to standard rates for FY 2025. Those six locations are:

- Fort Wayne, IN (Allen County)
- Canton, OH (Stark County)
- Mentor, OH (Lake County)
- East Greenwich/Warwick, RI (Kent County)
- Waco, TX (McLennan County), and
- Wisconsin Dells, WI (Columbia County).

For NSAs, the M&IE rate tiers will range from \$68 to \$92 per day in FY 2025. The last revision dates back to FY 2022.

**More info:** [www.gsa.gov/travel/plan-a-trip/per-diem-rates/fy-2025-per-diem-highlights](http://www.gsa.gov/travel/plan-a-trip/per-diem-rates/fy-2025-per-diem-highlights)

## COMPLIANCE CHECK

### ■ PAID FLAT SALARIES DESPITE OVERTIME HOURS WORKED

Ware Landscaping, Naperville, IL, violated the Fair Labor Standards Act’s overtime and minimum wage provisions. It paid nonexempt employees a flat weekly salary even when they worked beyond 40 hours per week.

The Dept. of Labor said the landscaping and snow removal company owed 77 employees:

- \$67,500 in back wages, and
- \$67,500 in liquidated damages.

**More info:** [www.dol.gov/newsroom/releases/whd/whd20240805](http://www.dol.gov/newsroom/releases/whd/whd20240805)

### ■ VIOLATED FEDERAL AND STATE OVERTIME LAWS

Lasting Love Homecare LLC, Bismarck, ND, violated federal and state overtime laws as well as recordkeeping requirements.

The third-party employer didn’t comply with North Dakota law related to overtime exemptions for domestic service workers.

So, the company had to pay \$73,680 in overtime wages to 76 employees.

**More info:** [www.dol.gov/newsroom/releases/whd/whd20240819-0](http://www.dol.gov/newsroom/releases/whd/whd20240819-0)

### ■ \$198K OWED FOR OPERATING ILLEGAL TIP POOL AND MORE

The Peak Inn LLC and Adair’s Saloon Inc., Dallas, shared tips earned by 20 bartenders with cooks. The Dept. of Labor (DOL) said the restaurants failed to pay overtime and minimum wage. Plus, they failed to combine hours when necessary, such as when an employee worked as a bartender and cook or when an employee worked at both restaurants.

The DOL will recoup \$197,902 in earnings.

**More info:** [www.dol.gov/newsroom/releases/whd/whd20240828-0](http://www.dol.gov/newsroom/releases/whd/whd20240828-0)

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## IRS: Clock's ticking to use Sec. 127 plans for student loan payments

■ THIS TAX-FREE FRINGE BENEFIT SET TO EXPIRE DEC. 31, 2025

A limited-time use of educational assistance programs is scheduled to expire at the end of 2025, the IRS recently reminded employers.

As explained in IR-2024-227, an employer may still make payments of up to \$5,250 per year toward an employee's student loans.

The payments can be made to the employee or the lender. Either way, such contributions can be excluded from an employee's income.

This provision, under Internal Revenue Code (IRC) Sec. 127(c)(1)(B), was added by the Coronavirus Aid, Relief, and Economic Security Act. The provision first became available for payments made after March 27, 2020.

Of course, employer-provided educational assistance programs go back further than 2020.

For many years, employers have been allowed to pay up to \$5,250 per year for employees' education expenses as presented in IRC Sec. 127(c)(1)(A).

The education expenses can include items like tuition, fees and similar

payments as well as books, supplies and equipment.

Note: The tax-free amount for this fringe benefit is \$5,250 when combining both:

- education expenses, and
- loans.

### What new legislation would change

While the measure pertaining to student loan payments currently applies to payments made before Jan. 1, 2026, new bipartisan legislation may change that.

HR 9164, known as the Employer Participation in Repayment Act, was introduced July 25, 2024. It seeks to amend Sec. 127 of the IRC.

If the legislation is enacted, the 2025 deadline would be removed for making employer payments of student loans under educational assistance programs. So, such payments would be permanently excluded from:

- federal income tax withholding
- FICA tax, and
- FUTA tax.

We'll keep you posted.

More info: [www.irs.gov/newsroom/news-releases-for-current-month](http://www.irs.gov/newsroom/news-releases-for-current-month)

## SSA getting ready to accept your W-2s for TY 2024

During the September IRS Payroll Industry Call, the SSA provided an update on Form W-2 and related topics.

First, SSA shared the latest data regarding how W-2s were filed for TY 2023, stating that about 98% of W-2s were filed electronically.

Next, the agency gave a heads-up that its software will be down so it can prepare for the new tax year. That'll occur for a few days, starting on Fri., Dec. 6, 2024. So, anyone who needs to file a W-2 or W-2c for tax year 2023 should do so before then. The

absolute latest date to file is Dec. 5, 2024, SSA said.

### Looking ahead

Payroll practitioners should test now that everything will work for e-filing forms for TY 2024. Don't wait until December – and definitely not January – SSA cautioned.

Also, SSA reminded employers that one of the options for logging in to Business Services Online won't be available for much longer. It's the Social Security account option.

More info: [www.ssa.gov/employer](http://www.ssa.gov/employer)

### ■ ADDRESS FOR REPORTING BACK PAY HAS CHANGED

The address employers should use to report back pay to the SSA has changed from what's stated in the January 2024 revision of Publication 957.

The new address is:

ATTN: DEBS Back Pay Staff  
OEIO DEBS EAB 2-C-2  
6100 Wabash Avenue  
Baltimore, MD 21215-3757

More info: [tinyurl.com/backpay699](http://tinyurl.com/backpay699)

### ■ IRS SAYS INTEREST RATES NOT CHANGING FOR Q4

IRS Revenue Ruling 2024-18 contains the interest rates for the fourth quarter of 2024. The rates will remain the same. They are:

- 8% for **overpayments** (7% for corporate **overpayments**)
- 5.5% for the portion of **overpayments** exceeding \$10,000, and
- 8% for **underpayments** (10% for large corporate **underpayments**).

More info: [www.irs.gov/newsroom/interest-rates-remain-the-same-for-the-fourth-quarter-of-2024](http://www.irs.gov/newsroom/interest-rates-remain-the-same-for-the-fourth-quarter-of-2024)

### ■ DEADLINE APPROACHES FOR CATCH-UP PROVISION

Heads up: Sec. 109 of the Secure 2.0 Act created a higher catch-up contribution limit for employees who have reached the ages of 60, 61, 62 and 63. That provision takes effect starting on Jan. 1, 2025.

Employers that decide to allow employees to make these additional contributions to retirement plans should know the law set the limit as the greater of:

- \$10,000, or
- 50% more than the regular catch-up amount to be indexed for inflation (currently, the regular catch-up amount is \$7,500).

More info: [www.congress.gov/bill/117th-congress/house-bill/2617](http://www.congress.gov/bill/117th-congress/house-bill/2617)

## Productivity is up & employees are working more hours, survey shows

■ ABOUT 70% OF HIRING MANAGERS SAID MORE WORK IS GETTING DONE

Workers are more productive now, compared to one year ago.

That's according to a Robert Half study, conducted in June of 2024 and involving both hiring managers and workers.

The study revealed some possible reasons behind that productivity boost, including that employees are logging more hours.

Here's a closer look at the study, which was released at the end of the summer.

### Reasons for the changes

Almost seven in 10 (68%) of hiring managers said they've seen an increase in employee productivity when compared with 2023.

So, what's leading to the greater output? The 2,500 hiring managers interviewed as part of the Robert Half survey offered the following explanations:

- improved management practices (38%)

- enhanced staff training (31%), and
- adopting new technologies (29%).

As for workers, they say that artificial intelligence (AI) is part of the reason they're more efficient.

In fact, 36% of workers shared that emerging technologies like generative AI free them up for other projects. AI handles some of their laborious tasks, the Robert Half survey noted.

But there's another low-tech reason employees may be getting more accomplished. That is, they're working more hours.

Over one-third (36%) of the 2,500 workers surveyed in 2024 reported that they're putting in more time at work.

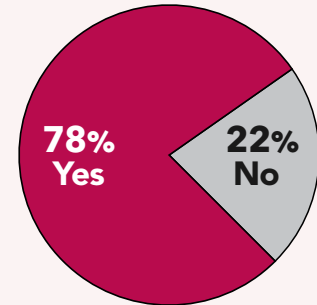
Some professions were more likely than others to say they're now clocking more hours. Here's a breakdown:

- technology – 45%
- marketing and creative – 39%
- human resources – 38%
- legal – 34%
- finance and accounting – 33%, and

## WHAT PAYROLL PROS TOLD US

### Mobile Banking

Do you check your mobile banking app weekly?



Source: Chase 2023 survey

Mobile banking apps allow employees to keep tabs on financial transactions including whether their paychecks have been deposited on payday.

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

- administrative and customer support – 25%.

What could be done to increase engagement and productivity? For 54% of workers it was hybrid work options, for 46% it was windowed work options and for 20% it was a compressed weekly work schedule.

More info: [tinyurl.com/work699](https://tinyurl.com/work699)

## REAL-LIFE SCENARIO: DID THEY GET IT RIGHT?

### Former employees questioned regular rate of pay used for overtime calculations

Two supermarkets operated by the same owners in New Jersey faced this real-life scenario:

Three former employees brought a case against their employer in federal district court, saying they hadn't been paid the overtime wages due to them.

Their specific claim was based upon the regular rate of pay the employer used in its overtime calculations.

To obtain the regular rate of pay, the supermarkets started with each employee's annual salary, divided that amount by the number of weeks in the year and then divided that figure by 50 hours. The reason for the 50

hours? During the hiring process, the employees' offer letters stated what their annual salaries would be and that the salaries were intended to compensate them for 50 hours of work per week.

For example, someone earning \$40,000 per year would have a regular rate of \$15.38 per hour. For overtime hours, that individual would earn \$23.07 per hour.

The supermarkets wanted the court to establish its method of calculation as the one the court would use. Problem was, the supermarkets' payroll records listed the employees' salaries alongside a different number:

40 hours. This contradiction was enough to stop the court from granting summary judgment to the employer.

What's more, the employees argued the hours they actually worked varied from week to week. Plus, they differed from what the supermarkets may have intended, as stated in their offer letters or payroll records.

### Checklist for compliance

- Check for any discrepancies between offer letters that HR sends out and payroll records.
- Ask managers to ensure that hours actually worked are reported.



## Tracking local laws and regs

### ■ Colorado County says hourly minimum wage will be \$16.57

Employers in Boulder County, CO, will need to pay a higher minimum wage rate in 2025.

The rate is increasing from \$15.81 per hour in 2024 to \$16.57 per hour in 2025. That's due to an ordinance the county commissioners passed in 2023 to raise the minimum wage in unincorporated Boulder County to \$25 per hour by 2030.

For tipped employees, the hourly rate is increasing from \$12.67 to \$13.55.

More info: [bouldercounty.gov](http://bouldercounty.gov)

### ■ Denver employers to pay higher minimum wage rate in 2025

Next year, the minimum wage in Denver will increase to \$18.81 per hour. The current hourly rate is \$18.29.

Also effective Jan. 1, 2025, the city will raise the rate for food and beverage workers to \$15.79 (it's now

\$15.27). That's assuming the workers earn at least \$3.02 per hour in tips.

More info: [denvergov.org](http://denvergov.org)

### ■ 74 counties in North Carolina have extra time to pay taxes

After Tropical Storm Debby made its way across North Carolina, 74 counties in the state were granted tax relief by the IRS.

Storms and flooding began on Aug. 5, 2024, leading the Federal Emergency Management Agency to make a disaster declaration and the IRS to extend certain tax-filing and tax-payment deadlines.

Feb. 3, 2025, is the new due date for the quarterly payroll and excise tax returns that would have normally been due on Oct. 31, 2024, and Jan. 31, 2025.

Also, penalties will be abated as long as tax deposits were made by Aug. 19, 2024.

More info: [www.irs.gov/newsroom/tax-relief-in-disaster-situations](http://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.*

### Before a natural disaster comes our way, how can we prepare?

**Q:** We don't want to be caught by surprise if a natural disaster strikes our workplace. How can we protect ourselves?

**A:** September is National Preparedness Month. Businesses can take steps today to prepare for problems tomorrow. For one thing, the IRS says to protect key documents and make copies. Specifically, you should store original documents in containers that are both

waterproof and fireproof. Also, if original documents are in paper format, they could be scanned or photographed into a digital file format and stored in a secure digital location. Another step recommended by the IRS? Document valuables. That may mean taking photos or videos to record possessions. In addition, write down descriptions that include year, make and model numbers where appropriate.

More info: [www.irs.gov/newsroom/reminder-september-is-national-preparedness-month-taxpayers-should-prepare-for-natural-disasters](http://www.irs.gov/newsroom/reminder-september-is-national-preparedness-month-taxpayers-should-prepare-for-natural-disasters)

Send questions to [jweiss@HRMorning.com](mailto:jweiss@HRMorning.com). Because of the volume of mail we receive, we regret we can't answer all submissions.

## RECENT CHANGES TO FEDERAL FORMS AND PUBLICATIONS

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

- Instructions for Forms 1099-R and 5498, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.* Revision date: 2024. Posted date: 8/22/24.
- Publication 1136, *Statistics of Income Bulletin*. Revision date: August 2024. Posted date: 8/26/24.
- Form 5498, *IRA Contribution Information*. Revision date: 2024. Posted date: 8/26/24.
- Form 2159 (sp), *Payroll Deduction Agreement (Spanish version)*. Revision date: July 2024. Posted date: 8/29/24.
- Publication 5439, *Municipal Bonds, Calendar Year 2021*. Revision date: September 2024. Posted date: 8/29/24.
- Form 15397, *Application for Extension of Time to Furnish Recipient Statements*. Revision date: August 2024. Posted date: 8/29/24.
- Publication 957, *Reporting Back Pay and Special Wage Payments to the Social Security Administration*. Revision date: January 2024. Posted date: 9/3/24.
- Form 8717-A, *User Fee for Employee Plan Opinion Letter Request*. Revision date: August 2024. Posted date: 9/3/24.

### 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!*

### COLORADO

- **ADVERSE ACTION:** A new law took effect June 3, 2024. The Comprehensive Assistance, Recognition and Empowerment (CARE) for Living Organ Donors Act says that employers can't intimidate, threaten, coerce, discriminate against or retaliate against an employee who's an organ donor. The CARE for Living Organ Donors Act also forbids employers from taking an adverse action against such an employee – that includes a demotion, denial of a promotion and decrease in pay, among of things. The law covers the period extending 30 days before and 90 days after the employee is or becomes a living organ donor. **More info:** [leg.colorado.gov/bills/hb24-1132](http://leg.colorado.gov/bills/hb24-1132)

### DISTRICT OF COLUMBIA

- **PAID FAMILY LEAVE:** On July 1, 2024, the Paid Family Leave tax rate increased to 0.75% of wages paid to each covered employee. The rate had been 0.26%. The first payment at the higher rate is due Oct. 31, 2024, for wages paid during the third quarter of 2024. All employers, except those with fewer than six employees, must use the Employee Self-Service Portal to report wages – the platform will account for the higher tax rate. **More info:** [dcpaidfamilyleave.dc.gov/employer-information](http://dcpaidfamilyleave.dc.gov/employer-information)

### IOWA

- **UNEMPLOYMENT INSURANCE:** The taxable wage base for unemployment insurance will increase to \$39,500 in 2025, according to Iowa Workforce

Development. That's up from \$38,200 in 2024. **More info:** [workforce.iowa.gov](http://workforce.iowa.gov)

### MARYLAND

- **PAY TRANSPARENCY:** The governor signed the Wage Range Transparency Act into law on April 25, 2024. That law says that in each public or internal posting for each position, an employer must disclose the wage range, general description of benefits and *any* other compensation offered. If such a posting wasn't made available to an applicant, all the information required to be disclosed in the posting must be communicated to that person before a discussion about compensation is held and at any other time that person requests the information. **More info:** [mgaleg.maryland.gov/2024RS/Chapters\\_noln/CH\\_271\\_hb0649t.pdf](http://mgaleg.maryland.gov/2024RS/Chapters_noln/CH_271_hb0649t.pdf)

### MASSACHUSETTS

- **EEO-1 REPORTING:** Due to HB 4890, an employer that has 100 or more employees in the state during the prior year and is required to file a federal EEO-1 data report must also submit a copy of the data report for the prior year to the state. The deadline for that is February 1 each year – that includes Feb. 1, 2025. The law also says that an employer that's required to file the federal EEO-3 data report or EEO-5 data report must provide a copy of the report for the most recent filing period to the state. These reports are due by February 1 in each odd-numbered year. Similar requirements apply to the EEO-4, with those reports due to the state in even-numbered years. **More info:** [malegislature.gov/Bills/193/H4890](http://malegislature.gov/Bills/193/H4890)

### NEW YORK

- **OVERPAYMENTS:** The state's labor law was amended in 2012 to allow deductions from wages under certain circumstances if an

employer overpays an employee. The provision was scheduled to expire in 2024, but recent legislation – SB 6369 – has extended that expiration date two years to Nov. 6, 2026. **More info:** [www.nysenate.gov/legislation/bills/2023/S9369](http://www.nysenate.gov/legislation/bills/2023/S9369)

### VERMONT

- **TAXES:** Employers will need to report the Child Care Contribution (CCC) for the first time when they file WHT-436, *Quarterly Withholding Reconciliation and Health Care Contribution*, on Sept. 30, 2024. In addition, quarterly withholding taxpayers will make their first payment on that date. Monthly and semiweekly withholding taxpayers started making payments when the CCC became effective – i.e., on July 1, 2024. **More info:** [tax.vermont.gov/business/child-care-contribution](http://tax.vermont.gov/business/child-care-contribution)

## THE LIGHTER SIDE

Whether you're involved in a little friendly competition at the office or you'd like to build morale, you may be tasked with choosing a team name.

Here are a few from Indeed you might like for your Payroll team:

- Taking Care of Business
- Herders of the Helpless
- Tax Season Survivors
- Reboot Rebels
- Noted
- No Fear Just Work
- Minimum Wagers
- Brain Trust
- Divide and Conquer
- Never Fail, and
- The Achievers

**Cite:** Indeed, "625 Funny, Cool and Powerful Work Team Names to Consider," 4/10/24