

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

October 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

- **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.
- **Oct. 11, 2024:** Deposit taxes for payroll on Oct. 5, 6, 7, 8.
- **Oct. 17, 2024:** Deposit taxes for payroll on Oct. 9, 10, 11.
- **Oct. 18, 2024:** Deposit taxes for payroll on Oct. 12, 13, 14, 15.
- **Oct. 23, 2024:** Deposit taxes for payroll on Oct. 16, 17, 18.

### MONTHLY DEPOSITORS

- **Oct. 15, 2024:** Deposit taxes for payments made during September 2024.
- **Nov. 15, 2024:** Deposit taxes for payments made during October 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.

## Social Security wage base addressed in watchdog report

### ■ Funds will be depleted without new approach

The wage base for Social Security tax will be announced for 2025 soon – currently, it's \$168,600.

The tax was first collected in 1937, and there's been a cap on how much of a worker's earnings is taxable since then.

But according to a new Government Accountability Office (GAO) report, some experts would like to raise the cap to a much higher level or eliminate it altogether.

That's just one of the potential reforms to the Social Security system discussed by GAO. Note: The agency exists to provide fact-based, nonpartisan information to Congress.

Having a higher, or nonexistent, taxable wage base would bring in

more revenue, to help the program avoid depletion of funds.

While the GAO doesn't endorse any ideas included in its three-part *Social Security Series*, it does provide summaries of them. Here are some of the other revenue-producing options.

### Other ideas for increasing revenue

Raising the payroll tax rate is another channel for replenishing the funds in the Social Security program, the report states.

The rate started at 1%, applying to both employers and employees from the beginning. It's been sitting at 6.2% since 2019. However, in 2011

*(Please see Watchdog report ... on Page 2)*

## Company missed deadline by 1 day: What Tax Court said

A recent case is a reminder to use an IRS-designated private delivery service if you're close to a deadline.

Following an audit, the IRS issued a notice of employment tax determination to Belagio Fine Jewelry Inc. The notice stated the company didn't file quarterly employment tax returns as required for two years – i.e., it misclassified a worker as an independent contractor.

Belagio filed a petition for redetermination of employment status with the U.S. Tax Court just four days before the 90-day window closed. The petition arrived one day after the deadline – even so, if the company

had used a private delivery service designated by the IRS, the petition would have been timely filed.

Problem was, the company used FedEx Express Saver. Note: Some, *but not all*, FedEx products are approved (same goes for UPS and DHL Express).

### 90 days to file

As things turned out, the IRS asked the Tax Court to dismiss the case, saying because of the missed deadline, the court didn't have jurisdiction.

The Tax Court said the 90-day deadline wasn't jurisdictional.

More info: [tinyurl.com/petition700](https://tinyurl.com/petition700)

## \$450K owed – company erred with prevailing wages & fringe benefits

■ PLUS, DOL FOUND VIOLATIONS OF FAIR LABOR STANDARDS ACT

After disregarding the requirements of the McNamara-O’Hara Service Contract Act (SCA), one federal contractor had to pay more than \$450,000.

Rhoades Aviation Inc., operating as TransAir, moved mail between airports in Hawaii under a contract with the U.S. Postal Service.

Problem was, 250 of the air cargo carrier’s employees didn’t receive their full pay and benefits as required by the SCA – that law establishes prevailing wages and fringe benefits for employers that obtain federal contracts that exceed \$2,500.

Here are the violations that the Dept. of Labor (DOL) found and the resulting amounts owed:

- Rhoades Aviation paid incorrect and lower prevailing wage rates to

208 material handling laborers and had to pay \$268,839 in back wages.

- It didn’t disburse correct health and welfare benefits as well as holiday and vacation pay to 208 workers. That led the DOL to recover \$156,106 in fringe benefits.

### Working during lunch breaks

The Honolulu employer also violated the Fair Labor Standards Act by failing to pay proper overtime wages to 55 workers. That happened when it made 30-minute deductions for lunch breaks not taken.

For that, it had to pay \$12,650 in overtime wages and \$12,625 in liquidated damages.

**More info:** [www.dol.gov/newsroom/releases/whd/whd20240903-0](http://www.dol.gov/newsroom/releases/whd/whd20240903-0)

## Watchdog report ...

(continued from Page 1)

and 2012, the old-age and survivor insurance portion of the tax was reduced by 2 percentage points for employees – that resulted in a 4.2% effective tax rate for employees.

Another Payroll-related change presented in the report? Reconsidering which employer-provided benefits are exempt from Social Security tax.

For example, if health insurance premiums became covered earnings, that would increase revenues.

### Lowering costs, too

Funding for the program could also be bolstered by decreasing costs, as detailed in the GAO report. Some ideas for doing that include:

- taking into account more than 35 working years for computations
- further cutting benefits for early retirement, and
- raising the full retirement age.

**More info:** [www.gao.gov/products/gao-24-107240](http://www.gao.gov/products/gao-24-107240)

## COMPLIANCE CHECK

### ■ DIDN’T INCLUDE BONUSES IN OVERTIME CALCULATIONS

Passavant Memorial Homes, Warrendale, PA, failed to include nondiscretionary bonuses when calculating overtime wage rates.

For that Fair Labor Standards Act violation, the residential homes operator had to pay 504 employees:

- \$163,418 in back wages, and
- \$163,418 in liquidated damages.

**More info:** [www.dol.gov/newsroom/releases/whd/whd20240829](http://www.dol.gov/newsroom/releases/whd/whd20240829)

### ■ TX LANDSCAPER HAD TO PAY \$103,665 IN BACK WAGES

J.P. Above & Beyond Landscaping, Southlake, TX, misclassified 38 workers as independent contractors instead of employees.

That meant the company failed to pay them time-and-a-half the regular rate of pay for hours worked beyond 40 in a workweek.

The Dept. of Labor said the landscaping company had to pay the employees \$103,665 in back wages.

**More info:** [www.dol.gov/newsroom/releases/whd/whd20240903](http://www.dol.gov/newsroom/releases/whd/whd20240903)

### ■ CONTRIBUTIONS NOT REMITTED FOR 354 DAYS

The Dept. of Labor (DOL) obtained a default judgment against Dierkes Heating and Air LLC, Waite Park, MN.

The DOL filed a lawsuit following an investigation – the company’s retirement plan fiduciaries had retained employee salary deferral contributions in the company’s corporate bank account for up to 354 days before remitting them to the plan. Plus, unremitted contributions were used for general operating expenses. So, the company owed \$9,259 for losses that plan participants experienced, a federal district court ruled.

**More info:** [www.dol.gov/newsroom/releases/sol/sol20240912](http://www.dol.gov/newsroom/releases/sol/sol20240912)

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## IRS releases tax year 2024 specs for e-filing 1099s and other returns

■ LATEST REVISION DATE FOR PUBLICATION 1220: AUGUST 2024

The IRS has updated its specs for e-filing Form 1099 and other returns for tax year 2024.

This latest round of updates to Publication 1220 occurred on Aug. 29, 2024.

The publication contains info needed to electronically file the following returns:

- 1097
- 1098
- 1099
- 3921
- 3922
- 5498, and
- W-2G.

The section titled “What’s New for Tax Year 2024” lists five changes. Here’s a recap.

### Recap of 5 changes

First, the IRS reviews the recently revised regulations that mandate electronic filing.

Publication 1220 includes an example of how forms filed through different platforms can add up to

10 returns, which is the threshold for required electronic filing.

Second, as explained in the publication, starting in tax year 2024 if you need more time to send copies of statements to recipients, you can use Form 15397, *Application for Extension of Time to Furnish Recipient Statements*. That form allows you to request a one-time, 30-day extension.

Note: If you need more time to file with the IRS, use Form 8809, *Application for Extension of Time to File Information Returns*.

Third, if you use the Filing Information Returns Electronically System, you should keep copies of file status emails and the associated files for the information returns for *three* years from the due date.

In two situations, the document retention period is *four* years, as Publication 1220 spells out.

Fourth, the IRS notes that the test system has a limit. It’s 125 test files per year.

Fifth, one state has a new code for combined federal/state filing. The code for Rhode Island is 44.

More info: [www.irs.gov/pub/irs-pdf/p1220.pdf](http://www.irs.gov/pub/irs-pdf/p1220.pdf)

## IRS notice explains 2 exceptions to 10% additional tax

When an employee takes a distribution from a qualified retirement plan, he or she must pay a 10% additional tax. There are exceptions, though.

In 2022, the Secure 2.0 Act added two new exceptions. They are:

- emergency personal expense distributions, and
- domestic abuse victim distributions.

### More details

Recently, in Notice 2024-55, the IRS provided more details. First, when it comes to emergency personal

expenses, the IRS said an individual is allowed only one distribution per calendar year, and the limit is \$1,000. Certain conditions must be met for subsequent-year distributions.

As for domestic abuse victim distributions, the aggregate amount can’t exceed the lesser of \$10,000 or 50% of the present value of the nonforfeitable accrued benefit.

The provisions took effect Jan. 1, 2024. The IRS is accepting comments on the notice until Oct. 7, 2024.

More info: [www.irs.gov/pub/irs-drop/n-24-55.pdf](http://www.irs.gov/pub/irs-drop/n-24-55.pdf)

## NEWS YOU CAN USE

### ■ AFFORDABILITY PERCENTAGE HIGHER FOR 2025, SAYS IRS

Is the lowest premium offered under your company’s healthcare plan affordable under the Affordable Care Act?

For plan years beginning in 2025, the household income percentage – aka required contribution percentage – will be 9.02%. The current number (8.39%) has been adjusted for inflation, the IRS announced in Revenue Procedure 2024-35.

More info: [www.irs.gov/pub/irs-drop/rp-24-35.pdf](http://www.irs.gov/pub/irs-drop/rp-24-35.pdf)

### ■ DATA YOU NEED FOR THIS TAXABLE FRINGE BENEFIT

If an employee takes a personal flight on an aircraft your company owns, you may be tasked with calculating the value of that taxable fringe benefit. Info from the Dept. of Transportation to help you do that has changed for the second half of 2024.

The terminal charge is now \$54.30, down from \$55.05. Also, the Standard Industry Fare Level per-mile rates have decreased to:

- 0.2971 for up to 500 miles (was 0.3012)
- 0.2265 for 501-1500 miles (was 0.2296), and
- 0.2178 for over 1500 miles (was 0.2208).

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

### ■ PROPOSED REGULATIONS COVER SEC. 139E OF IRC

On Sept. 17, 2024, the IRS proposed regulations regarding the exclusion from gross income of certain tribal general welfare benefits.

The Tribal General Welfare Exclusion Act of 2014 added Sec. 139E to the Internal Revenue Code (IRC). That provision defines a tribal general welfare benefit as any payment made or services provided to a member of a tribe pursuant to an Indian tribal government program.

More info: *Federal Register*, 9/17/24.

# State law and reg changes Payroll needs to know

**DELAWARE**

- **MINIMUM WAGE:** In 2025, employers will need to pay a minimum wage of \$15 per hour, according to the Delaware Dept. of Labor. The 2024 rate is \$13.25 per hour. For tipped employees, the minimum cash wage will remain \$2.23 per hour – therefore, the tip credit is going up to \$12.77 (now, it’s \$11.02). **More info:** [laborfiles.delaware.gov/main/dial/olle/Labor\\_Law\\_Poster.pdf](http://laborfiles.delaware.gov/main/dial/olle/Labor_Law_Poster.pdf)

**ILLINOIS**

- **TEMPORARY WORKER:** SB 3650 amends the Day and Temporary Labor Services Act. That law has gone through several amendments in recent months. Now, day and temporary labor service agencies have a different time frame related to paying day or temporary laborers. If they perform work for the same third-party client for more than 720 hours within a 12-month period, beginning on or after April 1, 2024, an agency must use the method chosen by the third-party client to determine compensation. Previously, the interval was more than 90 days. The methods are third-party client employee compensation data and data from the Bureau of Labor Statistics. **More info:** [tinyurl.com/temp700](http://tinyurl.com/temp700)

**NEW HAMPSHIRE**

- **VOLUNTEERS:** Due to HB 182, employers can’t discharge or take other disciplinary action against an employee who’s a volunteer member of a fire department or ambulance department if that person fails to report to work at the start of the workday because he or she came upon an emergency while en route to work. However, employers aren’t required to compensate employees for the missed time, and the employee must explain the reason for the failure to report. Also, an employer

can request that an employee submit a statement signed by the chief of the fire department or ambulance department certifying the date and time he or she responded to and returned from the emergency. The law took effect Aug. 13, 2024. **More info:** [legiscan.com/NH/text/HB182/id/2919128](http://legiscan.com/NH/text/HB182/id/2919128)

**RHODE ISLAND**

- **LEAVE:** SB 2121, which became law in June 2024, increases the maximum temporary caregiver benefit from six weeks to eight weeks over a two-year period. The amount will hit seven weeks on Jan. 1, 2025, and eight weeks on Jan. 1, 2026. Plus, the dependent’s allowance is scheduled to increase on Jan. 1, 2025. The allowance will be the greater of \$20 (currently \$10) or 7% of the individual’s benefit rate. **More info:** [legiscan.com/RI/text/S2121/id/3008794](http://legiscan.com/RI/text/S2121/id/3008794)

**VIRGINIA**

- **MINIMUM WAGE:** Employers must pay employees at least \$12.41 per hour starting Jan. 1, 2025. That’s according to the Virginia Dept. of Labor and Industry. For 2024, the hourly rate is \$12. The minimum amount tipped employees must be paid will remain \$2.13 per hour. That means next year, the tip credit will be \$10.28 per hour. Currently, the tip credit is \$9.87 per hour. **More info:** [doli.virginia.gov/minimum-wage-increase-effective-january-1-2025](http://doli.virginia.gov/minimum-wage-increase-effective-january-1-2025)
- **VETERANS BENEFITS:** According to HB 160, the Dept. of Labor and Industry – in consultation with the federal Dept. of Veterans Services – must create a new poster. It should describe benefits and services available to veterans. Employers will be able to request and display the poster in the workplace. Certain info will be included on the poster, such as tax benefits and eligibility for unemployment insurance benefits under state or federal law.

**More info:** [lis.virginia.gov/cgi-bin/legp604.exe?241+sum+HB160](http://lis.virginia.gov/cgi-bin/legp604.exe?241+sum+HB160)

**WASHINGTON**

- **UNEMPLOYMENT INSURANCE:** In 2025, the taxable wage base for unemployment insurance will increase to \$72,800, according to the Washington State Employment Security Dept. Currently, the taxable wage base is \$68,500. **More info:** [esd.wa.gov/newsroom/washingtons-average-wage-increases-in-2023](http://esd.wa.gov/newsroom/washingtons-average-wage-increases-in-2023)

**WISCONSIN**

- **TAX RECIPROCITY:** The Wisconsin Dept. of Revenue is required to work with the Minnesota Dept. of Revenue to study the effects of income tax reciprocity between the two states. The study will look at the number of residents of one state who earn income in the other state; the total amount of income earned in each state by those taxpayers; and the amount of tax revenue that each state would forgo if a reciprocity agreement is put in place. The study will be based on income tax data for the 2020 and 2021 tax years and other information needed to assess the situation. The deadline to submit the report to the legislature and governor of each state is Dec. 31, 2024. **More info:** [docs.legis.wisconsin.gov/2023/related/proposals/sb374](http://docs.legis.wisconsin.gov/2023/related/proposals/sb374)

**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.