

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

December 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

- **Dec. 2, 2024:** Deposit taxes for payroll on Nov. 23, 24, 25, 26.
- **Dec. 4, 2024:** Deposit taxes for payroll on Nov. 27, 28, 29.
- **Dec. 6, 2024:** Deposit taxes for payroll on Nov. 30; Dec. 1, 2, 3.
- **Dec. 11, 2024:** Deposit taxes for payroll on Dec. 4, 5, 6.
- **Dec. 13, 2024:** Deposit taxes for payroll on Dec. 7, 8, 9, 10.
- **Dec. 18, 2024:** Deposit taxes for payroll on Dec. 11, 12, 13.
- **Dec. 20, 2024:** Deposit taxes for payroll on Dec. 14, 15, 16, 17.
- **Dec. 26, 2024:** Deposit taxes for payroll on Dec. 18, 19, 20.

■ MONTHLY DEPOSITORS

- **Dec. 16, 2024:** Deposit taxes for payments made during November 2024.
- **Jan. 15, 2025:** Deposit taxes for payments made during December 2024.

■ ALL EMPLOYERS

- **Jan. 31, 2025:** File Form 941 for Q4 of 2024. Note: If you properly deposited taxes on time and in full, you have until Feb. 10, 2025, to file.

Court says 'no' to DOL's rule, reinstates earlier salary levels

■ Exempt workers must be paid at least \$35K per year

A federal district court overturned a rule that would have raised the salary level for exempt employees on Jan. 1, 2025.

What's more, an increase that already took effect on July 1, 2024, has been vacated.

So, the salary threshold for executive, administrative and professional exempt employees has dropped back down to at least \$684 per week (which equates to \$35,568 annually), effective immediately.

But that's not all: The ruling also did away with the requirement to pay highly compensated employees (HCEs) more per year.

Instead, employers will need to pay HCEs the amount in place at the

beginning of 2024 – i.e., \$107,432 per year.

Furthermore, you won't have to brace yourself for the automatic salary adjustments that would have occurred every three years. That new and controversial provision included in the Dept. of Labor's (DOL's) April 2024 rule has also been revoked.

Importance of duties test, too

On Nov. 15, 2024, a court in the eastern district of Texas issued its ruling, stopping the final overtime rule in its tracks.

That court may sound familiar. In June 2024, a judge issued a

(Please see Salary levels ... on Page 2)

Be on the lookout for changes to the ACH Network

Nacha – the organization that runs the ACH Network – is considering two changes related to ACH transactions.

And Nacha wants your input.

The deadline to submit comments is Dec. 13, 2024.

Here are the details:

Questions for the industry

First, while the ACH Network currently allows users to schedule ACH credits two banking days in advance, Nacha would like to hear from the industry about whether that amount of lead time is still necessary.

The Nacha Rules could be amended to get rid of that option.

Then, you'd have to settle ACH credits on the same banking or next banking day, as those are the other current options for ACH credits.

Second, Nacha asks what steps the industry can take to better utilize the processing of ACH returns. Of course, such returns are inefficient – and can be costly.

ACH returns occur when payments, such as direct deposit, can't be completed. For example, that may be due to an incorrect account number.

More info: nacha.org

Employees who worked at multiple locations received separate checks

■ HOME HEALTHCARE AGENCY OWED MORE THAN \$810K IN BACK WAGES

When direct care employees at Wyncote Wellness, LLC worked at multiple locations, they received separate paychecks for each of the locations where they worked.

Because the home healthcare agency didn't combine their hours worked, overtime and minimum wage violations resulted.

Also, the 196 employees recorded more hours than the company paid them for, and it didn't pay them for time spent traveling from client to client.

The Dept. of Labor found another Fair Labor Standards Act (FLSA) violation at Wyncote Wellness.

Namely, the company didn't keep records of hours worked. That included the time the direct care employees spent traveling between

clients when they worked with multiple clients during a day.

Compliance with FLSA required

As part of a consent judgment, the company had to pay:

- \$405,160 in back wages
- \$405,160 in liquidated damages, and
- \$10,000 in civil money penalties.

The consent judgment, obtained in a federal district court, also spelled out that the company had to comply with the FLSA going forward.

For example, it says the employer can't discharge or retaliate against an employee for refusing to participate in any activity which the employee reasonably believes to be in violation of the FLSA.

More info: www.dol.gov/newsroom/releases/whd/whd2024110

Salary levels ...

(continued from Page 1)

preliminary injunction, saying the DOL had exceeded its authority under the Fair Labor Standards Act (FLSA).

However, at that time, the impact of *State of Texas v. U.S. Dept. of Labor* was limited to Texas as an employer. Then, business organizations joined the legal fight against the final rule, and the cases were consolidated.

The business groups argued the DOL had overstepped its bound in regard to the salary test.

Specifically, they said that the duties test – which is also a key part of the FLSA – was effectively displaced because the minimum salary for exempt employees was set so high. How high? The salary threshold would've reached \$1,128 per week (which equates to \$58,656 annually) when 2025 began, if the court hadn't granted summary judgment.

The judge also instructed the DOL to give further consideration to its rule in light of the ruling.

More info: tinyurl.com/overtime704

COMPLIANCE CHECK

■ WORKERS AGES 14 AND 15 WORKED TOO LATE AT NIGHT

Deliver Magic LLC, operating as Marco's Pizza at two locations in Knoxville, TN, failed to comply with federal child labor requirements. The employer allowed minors to do dangerous tasks and employed 11 workers ages 14 and 15 to work later than 7 p.m. between Labor Day and June 1.

The employer has entered into an enhanced compliance agreement with the Dept. of Labor's (DOL's) Wage and Hour Division. The DOL said it must pay \$207,486 in civil money penalties.

More info: www.dol.gov/newsroom/releases/whd/whd20241112

■ MULTIPLE FLSA VIOLATIONS, MORE THAN \$600K OWED

Ulster Property Services LLC, a Bedford, NH, landscaper, violated multiple provisions of the Fair Labor Standards Act (FLSA). One example: The company paid straight time instead of overtime to 59 employees for hours that exceeded 40 in a workweek. Another example: The company didn't maintain records with dates of birth for employees under age 19. So, the landscaper had to pay:

- \$310,193 in back wages, and
- \$310,193 in liquidated damages.

More info: www.dol.gov/newsroom/releases/whd/whd20241112-1

■ ASSISTED LIVING FACILITY IGNORED OVERTIME HOURS

Lincoln Retirement Villa LLC, an assisted living facility in Fremont, CA, didn't account and pay for overtime hours worked by 20 employees. This led to the employer paying:

- \$68,672 in back wages
- \$68,672 in liquidated damages, and
- \$8,330 in civil money penalties,

More info: www.dol.gov/newsroom/releases/whd/whd20241120

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Advisory council presents the IRS with 6 ways to simplify Form W-4

- CHANGES WOULD HELP EMPLOYEES UNDERSTAND THEIR WITHHOLDING

The Internal Revenue Service Advisory Council (IRSAC) released its annual *Public Report* in November 2024.

Included in the nearly 400-page report were a handful of letters the advisory committee submitted to the IRS during the year.

One such letter addressed future versions of Form W-4, *Employee's Withholding Certificate*. The Sept. 6, 2024, letter presents six recommendations to the IRS for simplifying the form.

What the letter said

Recommendation #1: Go back to the version of Form W-4 that the IRS used prior to 2020. The current version of the form, while intended to improve accuracy, has caused confusion among employees. The existing base format could be kept as an optional method to ease the transition, IRSAC also suggested.

Recommendation #2: Simplify the options and instructions for taxpayers who work multiple jobs or have a spouse who also works. With the

form's current wording, taxpayers can unintentionally end up underwithheld. For example, step 2 could be reworded from "multiple jobs or spouse works" to "I work multiple jobs or my spouse also works."

Recommendation #3: Future-proof the form for taxpayers with qualifying children or relatives. After all, there's uncertainty about the upcoming value of the child tax credit. One suggestion included in the report: Indicate that step 3 is optional.

Recommendation #4: For employers that allow employees to complete Form W-4 in an electronic format, standardize the criteria for the withholding exemption.

Recommendation #5: Inform taxpayers of the need to update the form due to changes in their income level, marital status, etc. People may believe they need to complete the form only upon starting a new job.

Recommendation #6: Improve communication about Form W-4 and create a computation bridge in advance of Jan. 1, 2026, when some provisions of the Tax Cuts and Jobs Act are set to expire.

More info: www.irs.gov/pub/irs-pdf/p5316.pdf

Which states are 'credit reduction states' this year-end?

During 2024, did your company pay any wages that are subject to the unemployment compensation laws in California or New York?

If so, when you file Form 940, you may owe more FUTA tax than you do for wages paid elsewhere. Reason: Those two states are "credit reduction states." Note: Connecticut paid off its loan to the federal government by Nov. 10, 2024, so it's not on the list.

Knowing your FUTA tax rate

So, by how much will the credit against FUTA tax be reduced in

California and New York? By 0.9%. Here's how that'll work out: The FUTA tax rate is 6.0% on the first \$7,000 of wages, and the credit is 5.4%, bringing the tax rate for most employers to 0.6%.

But once the credit reduction is factored in, California and New York will have a credit of only 4.5%, so their FUTA tax rate will be 1.5%.

The situation is much worse in the Virgin Islands. There the FUTA tax credit will be reduced by 4.2%.

More info: oui.doleta.gov/unemploy/futa_credit.asp

NEWS YOU CAN USE

■ WHOSE EEO-1 REPORTS WILL BE MADE PUBLIC?

Heads up if your company filed a *Type 2 Consolidated Employer Information Reports, Standard Form 100* as a federal contractor for the 2021 reporting year.

The Office of Federal Contract Compliance (OFCCP) Programs says you have until Dec. 9, 2024, to take action – otherwise, your EEO-1 Report will be made public. As explained in an Oct. 29, 2024, *Federal Register* notice, the OFCCP received Freedom of Information Act requests from two entities. Before following through, the OFCCP has given employers a chance to object to their info being disclosed.

More info: tinyurl.com/report704

■ Q1 INTEREST RATES WILL DECREASE, IRS ANNOUNCED

As we turn the page to 2025, interest rates will be reduced, the IRS said in Revenue Ruling 2024-25. The first quarter interest rates will be down by one percentage point from the last quarter of 2024. They'll be:

- 7% for **overpayments** (6% for corporate **overpayments**)
- 4.5% for the portion of **overpayments** exceeding \$10,000, and
- 7% for **underpayments** (9% for large corporate **underpayments**).

More info: www.irs.gov/pub/irs-drop/rr-24-25.pdf

■ TECHNICAL GUIDANCE ON QSLP REQUESTED

Following the release of IRS Notice 2024-63, covering matching contributions employers may make for employees' qualified student loan payments (QSLP), the ERISA Industry Committee requested additional technical guidance.

One example: Model amendments that retirement plans could adopt to implement QSLP matches would be helpful, the organization explained.

More info: tinyurl.com/guidance704

State law and reg changes Payroll needs to know

CALIFORNIA

- **MINIMUM WAGE ORDER:** Due to the new minimum wage requirements for health care workers, the Dept. of Industrial Relations published a supplement to its General Minimum Wage Order. The mandatory posting is called the *California Minimum Wage Supplement for Covered Health Care Employees*. As of Oct. 16, 2024, the hourly rate ranges from \$18 to \$23, depending on the type of facility. **More info:** www.dir.ca.gov/iwc/MW-2024-HC-SUPPLEMENT.pdf

COLORADO

- **OVERTIME:** The Colorado Wage Act requires that employers include holiday incentive pay in the regular rate of pay when calculating overtime. That's what the Supreme Court of Colorado said on Sept. 9, 2024, in *Hamilton v. Amazon*. The employee in the case received holiday pay on company holidays at his regular hourly rate. If he worked on a company holiday, he received holiday incentive pay at one-and-a-half times his regular hourly rate – in addition to his holiday pay. Amazon didn't include his holiday incentive pay in his regular rate of pay – after all, the state's regs didn't expressly refer to that type of pay, the employer argued. However, the court found that the pay fell under the category of a shift differential. **More info:** caselaw.findlaw.com/court/co-supreme-court/116566902.html

DELAWARE

- **UNEMPLOYMENT INSURANCE:** The current taxable wage base for unemployment insurance is \$10,500. But that'll be increasing over the next few years now that HB 433 has become law. Starting in 2025, the taxable wage base will be \$12,500; in 2026, it'll be \$14,500; and in 2027 and thereafter, it'll be \$16,500. The legislation

made additional changes – for example, it revises the experience rating methodology used to assign unemployment assessment rates. The benefit wage ratio methodology will be replaced by the benefit ratio methodology. Also, the bill reduces the new employer unemployment assessment rates. **More info:** legis.delaware.gov/BillDetail/141505

MAINE

- **PAID LEAVE:** The Maine Dept. of Labor released proposed regs to implement the state's Paid Family and Medical Leave Program. Employers are required to start withholding premiums for this program starting in 2025 – i.e., on wages that will be paid on the first pay date in 2025. The contribution rate will be either 0.5% or 1% of wages, depending on employer size. Until the regs are finalized, employers can refer to FAQs **More info:** www.maine.gov/labor/docs/2024/rulemaking/PFMLDraftRuleSecondVersion.pdf

MICHIGAN

- **MINIMUM WAGE:** For a short time in 2025 – from Jan. 1 through Feb. 20 – the minimum wage rate will be \$10.56 per hour, in accordance with the usual rate increase schedule. Note: The current rate is \$10.33 per hour. Then, on Feb. 21, 2025, the hourly rate will increase again to \$12.48. The reason for the follow-up minimum wage rate change in February is the state supreme court ruled the Improved Workforce Opportunity Wage Act must be reinstated. **More info:** tinyurl.com/Michigan704

MISSISSIPPI

- **FORM W-2:** Electronic filing is required starting with TY 2024, if you're filing 10 or more W-2s or 1099s – that's the same threshold as on the federal level. The first instance of noncompliance can

lead to a penalty of \$25, with each additional instance of noncompliance amounting to \$500. **More info:** www.dor.ms.gov/node/15921

NEW JERSEY

- **FORM W-2:** The Dept. of Treasury's Division of Taxation has established official Form W-2 reporting guidelines for TY 2024. The state prefers that box 14 contain three specific entries for employee contributions as well as your company's Disability Insurance Private Plan Number (if applicable). **More info:** www.nj.gov/treasury/taxation/pdf/other_forms/git-er/m6025-2024.pdf

WEST VIRGINIA

- **INCOME TAX:** The personal income tax table that the state published in Administrative Notice 2024-03 in August 2024 has been superseded by legislation passed during the second extraordinary session in October 2024. The personal income tax rates will lower than they would've been. According to SB 2033, the tiers for most taxpayers (except married individuals filing separate returns) will start at 2.22% of taxable income up to \$10,000. The highest tier for taxable income over \$60,000 will be \$2,053.50 plus 4.82% of the excess over \$60,000. **More info:** tax.wv.gov/Individuals/Pages/PersonalIncomeTaxReductionBill.aspx

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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.