

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

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December 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

- **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.
- **Dec. 30, 2024:** Deposit taxes for payroll on Dec. 21, 22, 23, 24.
- **Jan. 2, 2025:** Deposit taxes for payroll on Dec. 25, 26, 27.
- **Jan. 6, 2025:** Deposit taxes for payroll on Dec. 28, 29, 30, 31.
- **Jan. 8, 2025:** Deposit taxes for payroll on Jan. 1, 2, 3.
- **Jan. 10, 2025:** Deposit taxes for payroll on Jan. 4, 5, 6, 7.

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.

DOL has begun collecting info for its lost-and-found database

■ Data to be submitted on a voluntary basis

The Dept. of Labor (DOL) started collecting data for its Retirement Savings Lost and Found in Nov. 18, 2024.

The Secure 2.0 Act required the DOL to create the database by the end of 2024.

It'll allow individuals who participated in a retirement plan – e.g., pension or 401(k) – to locate any retirement plan benefits owed to them by providing their plan administrators' contact info.

Employers will submit info to the database voluntarily.

The DOL first published a proposed information collection request in the *Federal Register* on April 16, 2024. The extensive list of data elements,

combined with other concerns, led commenters to push back.

In a revised request published in the *Federal Register* on Sept. 12, 2024, the DOL made dramatic cuts, taking its list down from three pages to one.

What's included now

Here's a look at what details will be reported and included in the database, as released in a *Federal Register* notice on Nov. 20, 2024:

- Name and plan number of plan as reflected on the most recent Form 5500 or Form 5500-SF
- Name, employer identification number (EIN), mailing address

(Please see Database ... on Page 2)

DOL weighs in on reimbursement & OT calculations

In a Nov. 8, 2024, opinion letter, the Dept. of Labor looked at whether daily expense payments for tools and equipment could be excluded from an employees' regular rate of pay.

Under the Fair Labor Standards Act (FLSA), nonexempt workers must be paid one-and-a-half times their regular rate of pay for overtime hours worked. Certain expense reimbursements can be excluded. One caveat: The actual or reasonably approximate amount of the expense must be relied on.

Personal items used for work

In FLSA 2024-01, the employer in question was a services company in

the oil and gas industry. It reimbursed inspectors who used personal items on the job, including tools and equipment needed for field work.

For this, the company paid the inspectors \$25 per day. It asked about pushing the amount up to \$150 or \$200 per day and continuing to exclude the amount from the regular rate of pay.

The DOL said the higher payments likely couldn't be excluded from overtime calculations. The amounts would be six to eight times higher, with no indication inspectors incurred such significant ongoing expenses.

More info: tinyurl.com/rrp705

Paycheck deductions for uniforms resulted in minimum wage problems

■ EMPLOYER OWED NEARLY \$90K IN BACK WAGES, LIQUIDATED DAMAGES

One Florida employer required employees to purchase uniform shirts for the job. Problem was, these deductions dropped their average weekly wages below the federal minimum wage.

But that wasn't the only Fair Labor Standards Act (FLSA) violation the Dept. of Labor (DOL) found during an investigation of Central Park Family Restaurant Inc.

The employer used the Florida cash wage for tipped employees instead of the state minimum wage to calculate the overtime rate for servers. (Point of reference: In 2024, the former is \$9.98 per hour and the latter is \$13 per hour.)

In addition, Central Park misclassified some kitchen staff as exempt from the overtime requirements of the FLSA. As a result, these employees received

a flat salary, even when their hours worked exceeded 40 in a workweek.

The DOL determined the New Port Richey, FL, employer had to pay \$87,118 in back wages and liquidated damages for 21 workers.

Prorating the cost

As explained in DOL's *Fact Sheet #16*, employers can deduct from employees' wages for the cost of uniforms.

However, caution must be maintained, so that employees earn at least the federal minimum wage and their overtime isn't reduced.

One solution to ensure FLSA compliance at your company: You can prorate the cost of the uniform over a period of paydays.

More info: www.dol.gov/newsroom/releases/whd/whd20241121

Database ...

(continued from Page 1)

- and telephone number of the plan administrator as reflected on the most recent Form 5500
- Name, EIN and telephone number of the plan sponsor as reflected on the most recent Form 5500, and
- Name and Social Security number of any separated vested participant aged 65 or older who's owed a vested benefit. This includes deceased participants who would have been age 65 or older if they'd survived and whose beneficiaries are entitled to a benefit; separated vested participants in that age range whose benefits were conditionally forfeited under Treasury Regulation Section 1.411(a)-4(b)(6); and separated vested participants in that age range who are in pay status.

Plus, in the case of anyone who, after being reported to the database, received their benefit, employers would indicate that the benefit has been paid and the date of the payment.

More info: tinyurl.com/retire705

COMPLIANCE CHECK

■ SHIFT DIFFERENTIALS: HOW COMPANY WENT WRONG

Faurecia Emissions Control Technologies USA Inc., operating as Faurecia Clean Mobility, failed to include hourly shift differentials in employees' regular rate of pay when calculating overtime.

Due to this and other Fair Labor Standards Act violations, the Auburn Hills, MI, company has agreed to pay:

- \$50,563 in back wages, and
- \$50,563 in liquidated damages.

More info: www.dol.gov/newsroom/releases/whd/whd20241122

■ ARIZONA CONTRACTOR OWED \$1.7M, COURT SAID

Bean Drywall Inc., a residential drywall contractor, failed to pay overtime to 246 workers. Instead, the employer paid them using either a straight-time rate or a piece rate.

The Dept. of Labor obtained a judgment in federal court ordering the Phoenix employer to pay:

- \$875,000 in back wages, and
- \$875,000 in liquidated damages, and
- \$25,000 in civil money penalties.

More info: www.dol.gov/newsroom/releases/whd/whd20241126

■ TIP CREDIT INVALIDATED AND COULDN'T BE CLAIMED

Sly Fox Brewing Company, a Pennsylvania employer, allowed managers to participate in tip pools, in violation of the Fair Labor Standards Act. This invalidated the tip credit claimed by the employer, and the employer had to return the tips to employees and pay them the full federal minimum wage. It owed:

- \$84,710 in back wages
- \$84,710 in liquidated damages, and
- \$15,435 for in civil money penalties.

More info: www.dol.gov/newsroom/releases/whd/whd20241126

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2025 unemployment insurance taxes: States releasing wage base updates

■ INCREASES IN MANY STATES, BUT THERE'S A DECREASE IN 1 STATE

Here are the wage bases you need in 2025 to accurately withhold unemployment insurance taxes. Note: Bold indicates a change from 2024:

AL	– \$8,000 (\$8,000)	MN	– TBA (\$42,000)
AK	– \$51,700 (\$49,700)	MS	– \$14,000 (\$14,000)
AZ	– \$8,000 (\$8,000)	MO	– \$9,500 (\$10,000)
AR	– \$7,000 (\$7,000)	MT	– TBA (\$43,000)
CA	– \$7,000 (\$7,000)	NE	– \$9,000 (\$9,000)
CO	– \$27,200 (\$23,800)	NV	– \$41,800 (\$40,600)
CT	– \$26,100 (\$25,000)	NH	– \$14,000 (\$14,000)
DE	– \$12,500 (\$10,500)	NJ	– \$43,300 (\$42,300)
FL	– \$7,000 (\$7,000)	NM	– TBA (\$31,700)
GA	– \$9,500 (\$9,500)	NY	– \$12,800 (\$12,500)
HI	– TBA (\$59,100)	NC	– TBA (\$31,400)
ID	– TBA (\$53,500)	ND	– TBA (\$43,800)
IL	– \$13,916 (\$13,590)	OH	– \$9,000 (\$9,000)
IN	– \$9,500 (\$9,500)	OK	– TBA (\$27,000)
IA	– \$39,500 (\$38,200)	OR	– \$54,300 (\$52,800)
KS	– \$14,000 (\$14,000)	PA	– \$10,000 (\$10,000)
KY	– TBA (\$11,400)	RI	– TBA (\$29,200)
LA	– \$7,700 (\$7,700)	SC	– \$14,000 (\$14,000)
ME	– \$12,000 (\$12,000)	SD	– TBA (\$15,000)
MD	– \$8,500 (\$8,500)	TN	– TBA (\$7,000)
MA	– \$15,000 (\$15,000)	TX	– \$9,000 (\$9,000)
MI	– TBA (\$9,500)	UT	– \$48,900 (\$47,000)
		VT	– \$14,800 (\$14,300)
		VA	– \$8,000 (\$8,000)
		WA	– \$72,800 (\$68,500)
		WV	– TBA (\$9,521)
		WI	– \$14,000 (\$14,000)
		WY	– \$32,400 (\$30,900)

New recordkeeping requirements under PWFA?

Recordkeeping requirements under the Pregnant Workers Fairness Act (PWFA) may soon change. That's the result of a proposed rule recently issued by the EEOC.

The Nov. 21, 2024, proposed rule calls for regulatory changes related to recordkeeping and provides the requisite opportunity for a public hearing. Comments are due by Jan. 21, 2025.

Law to be added to list

Currently under the regs, entities must preserve their records – for one

to two years depending on the type of entity. They also must continue to preserve records relevant to charges filed under three laws until final disposition occurs.

Those three laws are:

- Title VII of the Civil Rights Act of 1964
- Americans with Disabilities Act, and
- Genetic Information Nondiscrimination Act.

If the EEOC rule is finalized, the PWFA will be added to that list.

More info: tinyurl.com/pwfa705

NEWS YOU CAN USE

■ HOW MUCH INCOME WILL BE EXEMPT FROM LEVY IN 2025?

The IRS issued Publication 1494 for 2025 on Dec. 4, 2024.

Payroll pros need the tables contained in this publication in case they receive Form 668-W, *Notice of Levy on Wages, Salary and Other Income*, from the IRS. The tables explain how much of an employee's income is exempt from levy during 2025, based on an employee's filing status and number of dependents claimed on Form 668-W.

More info: www.irs.gov/pub/irs-pdf/p1494.pdf

■ IRS UPDATES FORM 944, REDUCES PAGES BY HALF

Form 944 and the accompanying instructions have been updated for TY 2024. The form has been reduced from six to three pages, given the removal of COVID-19 credits.

If you must file this annual federal tax return, the deadline is Jan. 31, 2025. Note: If you made deposits on time and paid taxes in full, you have until Feb. 10, 2025.

More info: www.irs.gov/forms-pubs/about-form-944

■ EARNED INCOME CREDIT: NOTIFICATION SOON DUE

The IRS revised Notice 1015 in December 2024. This notice provides information for employers on the earned income credit (EIC).

While employers are required to notify certain employees of the EIC, Form W-2 contains the required info on the back of Copy B. That makes the process simple – but not always.

One example: Say you're late issuing W-2s. You'll still need to notify employees of the EIC by the W-2 deadline. Another example: If you use substitute W-2s and the EIC language isn't included, you'll need to notify employees about the EIC another way.

More info: www.irs.gov/pub/irs-pdf/n1015.pdf

State law and reg changes Payroll needs to know

ALASKA

- **EXEMPT:** To classify an employee as exempt from overtime, he or she must earn at least \$952.80 per week – i.e., \$49,545.60 per year. That’s up from the current floor of \$938.40 per week – i.e., \$48,796.80 per year in 2024. **More info:** labor.alaska.gov/lss/wbhome.htm
- **MINIMUM WAGE:** On Jan. 1, 2025, the minimum wage rate will increase from \$11.73 to \$11.91 per hour. Midyear, the rate will increase again, due to voters approving Ballot Measure No. 1 on Election Day. Specifically, on July 1, 2025, the rate will rise to \$13 per hour. Note: The measure also included increases in 2026 to \$14 and in 2027 to \$15 per hour. **More info:** labor.alaska.gov/lss/wbhome.htm

MISSOURI

- **MINIMUM WAGE:** Given that Proposition A was approved by voters on Election Day, the minimum wage will increase to \$13.75 per hour on Jan. 1, 2025 – that’s up from the current hourly rate of \$12.30. The following year, the minimum wage rate will increase again to \$15 per hour. After that, adjustments will be made annually, based on the Consumer Price Index. **More info:** labor.mo.gov/news/press-releases/minimum-wage-set-increase-january-1

NEBRASKA

- **PAID SICK LEAVE:** Voters said “yes” to Initiative Measure 436 on Election Day. So, the Nebraska Healthy Families and Workplaces Act will take effect Oct. 1, 2025. Employees will earn one hour of paid sick time for every 30 hours worked. That’ll be capped at 40 hours per year for employers with fewer than 20 employees and at 56 hours per year for employers with 20 or more employees. Paid leave can be taken for several

reasons including an employee’s mental or physical illness, injury or health condition – or to care for a family member. “Reasonable documentation” can be requested for absences longer than three consecutive days. **More info:** tinyurl.com/nebraska705

NEW JERSEY

- **MINIMUM WAGE:** The Dept. of Labor and Workforce Development announced a cost-of-living adjustment to the minimum wage rate for 2025. The rate will increase from \$15.13 to \$15.49 per hour, starting on Jan. 1, 2025. Seasonal and small employers have a different minimum wage rate, due to a 2019 law. Once 2025 begins, seasonal and small employers must pay an hourly rate of at least \$14.53 – currently, the rate is \$13.73. **More info:** www.nj.gov/labor/lwdhome/press/2024/20241008_minwage.shtml

NEW YORK

- **PAID FAMILY LEAVE:** Under the state’s paid family leave program in 2025, the employee contribution rate will be 0.388% (up from 0.373%) of gross wages per pay period. The annual wage base for this insurance program will be \$91,373.88 (up from \$89,343.80), resulting in a maximum annual contribution of \$354.53 (up from \$333.25). If any employees earn less than the New York State Average Weekly Wage of \$1,757.19, they’ll contribute less than the annual cap, based on their income level. **More info:** paidfamilyleave.ny.gov/2025

OHIO

- **MINIMUM WAGE:** The Ohio Dept. of Commerce has raised the minimum wage rate for 2025. The current rate of \$10.45 per hour will increase to \$10.70 per hour on Jan. 1, 2025. The rate is tied

to the Consumer Price Index for urban wage earners and clerical workers. The requirement to pay the minimum wage will apply to businesses with annual gross receipts of more than \$394,000 – currently, \$385,000. **More info:** com.ohio.gov/about-us/media-center/news/Ohio-minimum-wage-set-to-increase-in-2025

SOUTH DAKOTA

- **MINIMUM WAGE:** Employers will need to pay employees at least \$11.50 per hour starting Jan. 1, 2025. That’s up from the current minimum wage rate of \$11.20 per hour. **More info:** dlr.sd.gov/employment_laws/minimum_wage.aspx

WASHINGTON

- **MINIMUM WAGE:** As of Jan. 1, 2025, in King County, the minimum wage for employers with more than 500 employees will be \$20.29 per hour. For employers with more than 15 and up to 500 employees, it’ll be \$18.29 per hour. For employers with 15 or fewer employees and revenue of \$2 million or more, it’ll be \$18.29 per hour. For employers with 15 or fewer employees and revenue less than \$2 million, it’ll be \$17.29 per hour. Meanwhile, when 2025 begins, the minimum wage in Seattle – for employers of any size – will be \$20.76 per hour. **More info:** kingcounty.gov; seattle.gov

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