

Human Resources: Payroll

1. Setting up the payroll function for success

HR's role in payroll

1. Introduction to Payroll in HR

- Payroll is central to the human experience in any organization.
- Pay is directly connected to employees' motivation and basic needs.

2. HR's Connection to Payroll

- Employees often associate payroll issues with HR due to its role in handling all human-related aspects.
- Accurate and fair payroll builds trust and ensures employee satisfaction.

3. Importance of Payroll

- Payroll fulfills fundamental needs as per **Maslow's Hierarchy of Needs**:
 - **Basic Needs (Bottom of Pyramid)**: Air, water, food, shelter—linked to pay.
 - Without pay, employees can't progress to higher-level needs like safety, belonging, and self-actualization.

4. Consequences of Payroll Errors

- Payroll errors can significantly impact employee morale and motivation.
- Accurate payroll ensures a secure and productive workplace.

5. HR's Opportunity through Payroll

- HR has the power to impact employees' full potential by addressing payroll issues effectively.
- By ensuring accurate payroll, HR contributes to building a solid organizational foundation.

Legal issues governing payroll

1. Pay Frequency and Systems

- Employees are often confused about pay frequency (e.g., **biweekly, semi-monthly, or weekly**):
 - **Biweekly**: Paid every two weeks (26 checks/year, with 2 months having 3 checks).
 - **Semi-monthly**: Paid twice a month (15th and last day; 24 checks/year).

2. Minimum Wage Laws

- **Federal, State, and Local Minimum Wage:**

- Employers must pay the **highest minimum wage** (federal, state, or local) that benefits the employee.
- Example: California (State: \$15/hour, L.A. County: \$16.04/hour).
- **Work Location Rule:**
 - Minimum wage applies based on the employee's **work location**, not the company's headquarters.

3. Examples of Variations in Minimum Wage

- **United States:**
 - Federal minimum wage: \$7.25/hour.
 - California minimum wage (employers over 26 employees): \$15/hour or higher locally.
- **International Comparison:**
 - **Australia:** Highest global minimum wage at \$14.54/hour.
 - **France, Ireland, UK:** Lower wages for younger workers permitted.

4. Importance of Compliance

- Employers must:
 - Ensure **accurate pay** with correct withholdings and deductions.
 - Understand laws in the **business and employee's location**.

5. Global Considerations

- Payroll systems and laws differ across countries.
- Employers must adhere to local, state, and national regulations to avoid penalt

Deciding on a Payroll System

1. Key Considerations for Choosing a Payroll System

- Size of the company.
- Number of employees.
- Time and resources available for processing payroll.

2. Common Payroll Systems

- **In-house Manual Payroll System:**
 - **Process:** Write checks by hand, calculate wages and deductions manually, process employer tax liabilities.
 - **Advantages:**

- Inexpensive for small businesses with few employees.
 - Requires only basic office supplies (paper timesheets, checks, etc.).
 - **Disadvantages:**
 - Time-consuming and error-prone due to manual calculations.
 - Limited scalability as the company grows.
- **In-house Payroll Software System:**
 - **Process:** Automates wage calculations, deductions, W-2 printing, and direct deposit.
 - **Advantages:**
 - Saves time and reduces errors through automation.
 - Offers features like employee self-service through apps.
 - **Disadvantages:**
 - High upfront cost for software purchase and staff training.
 - May not be cost-effective for very small businesses.
- **Payroll Outsourcing:**
 - **Process:** A payroll service provider handles all payroll duties, including taxes, PTO, benefits, and global payroll processing.
 - **Advantages:**
 - Time-saving and efficient for businesses of all sizes.
 - Expert consultants guide the process, and mobile access is often provided.
 - **Disadvantages:**
 - Access to immediate assistance can be challenging due to the provider's workload.
 - Employers remain responsible for tax payment errors, even if made by the third party.

3. Factors to Evaluate When Selecting a Payroll System

- Budget constraints and cost-effectiveness.
 - Scalability as the business grows.
 - Need for accuracy, automation, and time efficiency.
 - Importance of compliance with tax and legal regulations.
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2. Payroll Fundamentals

Classification of Workers: Important Notes

1. Why Proper Classification is Important:

- **Government Penalties:**
 - Serious fines for misclassification (e.g., \$66,000 per violation in Australia).
 - In the US, IRS fines, tax liabilities, and benefit payments are imposed.
- **Legal Rulings:**
 - Example: The UK Supreme Court ruled Uber drivers are employees, granting them rights like minimum wage and paid holidays.

2. Worker Classification Types:

- **Independent Contractor:**
 - Self-employed, uses personal resources (e.g., equipment).
 - Has control over work schedules, location, and methods.
 - Not entitled to employee benefits or overtime pay.
- **Employee:**
 - Works under employer supervision with specific hours, location, and instructions.
 - Entitled to benefits, overtime pay, and workplace protections.

3. Key Indicators for Classification (IRS 20 Factor Test):

- **Behavioral Control:**
 - Does the employer control when, where, and how the worker performs tasks?
 - Is training or compliance with company policies required?
- **Financial Control:**
 - Who determines pay structure and working hours?
 - Does the worker have an opportunity for profit or loss?
- **Relationship of the Parties:**
 - Are there benefits provided to the worker?
 - Is there a written contract, and what does it state about the relationship?

4. Case Example: Maria at Red Tech 30:

- **Facts Indicating Employee Status:**
 - Required to work specific hours and location.

- Participated in company training and events.
- Required to report daily activities.
- **Error in Classification:**
 - Signed a contractor agreement, missing out on benefits and overtime pay.
 - If reported, the company could face fines, back wages, and damages for misclassification.

5. Steps for Employers:

- Regularly review and assess the classification of all workers.
- Use tools like the IRS 20 Factor Test to evaluate behavioral and financial control.
- Ensure contracts align with the worker's actual responsibilities and work arrangement.
- Avoid forcing agreements that misclassify workers to escape liability.

Exempt and Non-Exempt Employees

1. Definitions:

- **Exempt Employees:**
 - Salaried employees who are **not eligible for overtime pay**.
 - Includes categories like executives, learned professionals, administrative employees, computer employees, outside sales, and highly compensated professionals.
- **Non-Exempt Employees:**
 - Hourly employees who are **eligible for overtime**.
 - Overtime pay is **1.5 times the regular rate** for hours worked over 40 hours per week (as per the Fair Labor Standards Act, FLSA).

2. Exempt Classification Criteria (FLSA):

- **Salary Basis Test:**
 - Employee must be paid at least **\$684 per week**.
- **Primary Duties Test:**
 - The nature of the employee's job must match specific criteria for exemption.

3. Common Exemption Categories:

- **Administrative Employee Exemption:**
 - Primary duties involve office or non-manual work related to management or business operations.

- Requires discretion and independent judgment on significant matters.
- **Executive Employee Exemption:**
 - Manages the enterprise or a recognized department/subdivision.
 - Regularly directs the work of at least two or more employees.
- **Computer Employee Exemption:**
 - Must work as a computer systems analyst, programmer, or software engineer.
- **Outside Sales Exemption:**
 - Primary duty involves making sales or obtaining contracts away from the employer's place of business.
- **Professional Exemption:**
 - Includes learned professionals and highly compensated employees.

4. Case Example: Levi's Company

- **Error in Classification:**
 - All employees were classified as exempt due to a misunderstanding of the computer employee exemption.
 - Levi performed clerical tasks under supervision, which do not qualify for exemption.
- **Consequences for Misclassification:**
 - Overtime payments with interest and statutory penalties.
 - Levi may be owed overtime pay for 20 hours per week since 2014.
 - Employer may face legal and financial liabilities.

5. Steps to Avoid Misclassification Errors:

- **Understand Exempt Categories:**
 - Ensure job duties meet the criteria for exemption.
- **Conduct Regular Reviews:**
 - Audit employee classifications periodically to ensure compliance.
- **Seek Legal Assistance:**
 - Consult payroll and legal teams to review complex classifications.
- **Use Salary Test as a Guide:**
 - Employees earning less than \$684 per week cannot be exempt.

6. Key Takeaways for HR Professionals:

- Proper classification prevents lawsuits, back wages, and fines.
 - Review FLSA guidelines and perform regular classification checks.
 - Keep documentation and records of classifications for future reference.
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Garnishments and Payroll Taxes

1. Garnishments:

- **Definition:**
 - Deductions from an employee's paycheck due to a **court order** or **government agency** directive.
 - **Employer Responsibilities:**
 - Start withholding garnishments **immediately** upon receiving the garnishment order.
 - Submit a statutory response within **7 days** of receiving the garnishment order.
 - **Employee Rights:**
 - Employees receive a copy of the garnishment order.
 - They can contest the garnishment within a specific time period, which varies by state.
 - **Inclusions in Garnishment Calculations:**
 - All pay types: wages, commissions, and bonuses.
 - **Common Reasons for Garnishments:**
 - Child support, student loans, delinquent taxes, and other debts.
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2. Payroll Taxes:

- **Federal Payroll Tax Responsibilities:**
 - Employers must withhold taxes based on the employee's **W-4 form** (used to calculate federal income tax withholding).
 - Federal payroll taxes include:
 - **Social Security and Medicare Taxes (FICA):**
 - Paid by both employer and employee.
 - **Federal Unemployment Tax (FUTA):**
 - Paid only by the employer.
- **State Payroll Tax Responsibilities:**

- **State Unemployment Taxes (SUTA):**
 - Paid by the employer based on state regulations.
 - State income tax withholding (varies by state).
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3. Key Considerations for Payroll Processing:

- **Accuracy in Deductions:**
 - Understand garnishment laws and tax requirements to avoid errors.
 - **Types of Taxes to Withhold:**
 - Federal income tax.
 - Social Security and Medicare taxes (FICA).
 - State income tax (if applicable).
 - **Employer Contributions:**
 - Employer matches the employee's Social Security and Medicare taxes.
 - Pays unemployment taxes (FUTA and SUTA).
 - **Importance of W-4 Form:**
 - Guides the employer on how much federal income tax to withhold.
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Real-Life Example: Rocco at University of Castle Rock

- **Rocco's Payroll Deductions:**
 - Federal income taxes (based on W-4).
 - Social Security and Medicare taxes (employee's share).
 - **University's Payroll Responsibilities:**
 - Matches Rocco's Social Security and Medicare taxes.
 - Pays federal and state unemployment taxes on Rocco's behalf.
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Bonus and Commissions

1. Bonuses:

- **Definition:**
 - Bonuses are considered **supplemental income** and are taxed at higher rates than regular income.
- **Taxation of Bonuses:**

- **Percentage Method:**
 - A flat tax rate of **22%** for bonuses up to **\$1 million**.
 - Bonuses exceeding **\$1 million** are taxed at **37%** in the United States.
 - Social Security and Medicare taxes are also deducted.
 - Example:
 - A \$5,000 bonus taxed at 22%:
 - Federal tax = **\$1,100**.
 - Additional deductions = Social Security and Medicare taxes.
 - **HR Responsibility:**
 - Properly award bonuses based on performance.
 - Record them correctly in payroll.
 - **Resource:**
 - Use the **Tax Withholding Calculator** on the IRS website for accurate deductions.
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2. Commissions:

- **Definition:**
 - Payment made to employees based on sales performance.
 - Can be a percentage of the sale or a flat amount based on sales volume.
 - **Purpose:**
 - Companies use commissions to **incentivize productivity** and sales growth.
 - **Taxation of Commissions:**
 - Taxed similar to bonuses (usually at the supplemental income rate).
 - **Example:**
 - Amar, an outside sales rep, earns a commission for customer signups and upselling services.
 - His commissions are calculated as:
 - **Percentage of sales** or
 - **Flat dollar amount** based on sales targets.
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Payroll Compliance

Sick and Vacation Time: Important Notes

1. Sick Leave

- **Global Perspective:**
 - The U.S. is the **only developed country** without a national paid sick leave policy.
 - Example: **Iceland** provides workers 100% pay for 2 days of sick leave for every week worked.
 - **Key Concepts:**
 - **Definition:**
 - Sick leave allows employees to stay home when sick (including mental health reasons) without losing their jobs.
 - **Paid Sick Leave:**
 - Guarantees pay during the time an employee is sick or caring for their family.
 - **U.S. Regulations:**
 - **Family Medical Leave Act (FMLA), 1993:**
 - Provides job protection for unpaid medical or family leave.
 - Applies only to companies with **50+ employees**.
 - Requires employees to have worked **1,250 hours** in the prior year.
 - **Access Disparity:**
 - Higher-paid workers are more likely to receive paid sick leave than lower-paid workers.
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2. Vacation Time

- **U.S. Policy:**
 - No federal law mandates paid vacation.
 - Employers offering vacation pay must treat all employees equally in policy administration.
- **Global Comparison:**
 - **UK:** Mandates **28 days of paid vacation** annually for full-time workers.
- **Vacation Pay:**
 - Based on agreements (e.g., collective bargaining, company policy, or contracts).

- States often require **accrued vacation payout** at termination.
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3. Paid Time Off (PTO):

- **Definition:**
 - Combines sick and vacation time into one plan.
 - Must meet state sick leave requirements to remain compliant.
 - **Taxation:**
 - Both sick and vacation time are taxed like regular wages.
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4. Trends and Best Practices

- **Vacation Policies:**
 - Common starting range: **1–4 weeks**, increasing with years of service.
 - **Unlimited PTO:**
 - Allows employees to take as many days off as needed, provided their work and team responsibilities are not affected.
 - Used by companies like **Oracle**, **Netflix**, and **Zoom** for salaried exempt employees.
 - **Legal Caution:** Seek advice to ensure compliance with state laws.
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Employee Benefits and Fringe Benefits

1. Role of Benefits in Compensation

- Fringe and medical benefits are **key strategies** to retain skilled employees.
 - Companies like **Google** pioneered unique fringe benefits, such as:
 - Bringing pets to work.
 - Free meals and snacks.
 - Onsite activities like guitar lessons.
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2. Types of Fringe Benefits

- **Traditional Fringe Benefits:**
 - **Health Insurance**
 - **Group-term Life Insurance**
 - **Educational Assistance**

- Child and Elder Care Assistance
 - Employee Discounts
 - Employee Stock Options (ESOs)
 - Personal Use of Company-owned Vehicles
 - **Tax-Exempt Fringe Benefits:**
 - Health Savings Accounts (HSAs)
 - Employee Stock Options
 - Educational Assistance
 - Meals (under certain conditions)
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3. Importance of Health Benefits

- **Key Role:**
 - Allows employees and families to address essential medical needs.
 - Attracts and retains employees, especially in competitive markets.
 - **Complexity:**
 - Federal and state laws may overlap, creating confusion.
 - Examples of regulations include **ERISA (Employee Retirement Income Security Act)**.
 - **HR Responsibility:**
 - Ensure compliance with laws.
 - Educate employees about benefit options and access.
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4. Benefits for Hiring and Retention

- **Why Benefits Matter:**
 - A robust benefits package supports hiring goals.
 - Helps retain top talent in competitive industries.
 - **ERISA's Role:**
 - Mandates access to health plan information.
 - Provides worker protections for private-sector health plans.
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Maternity and Paternity Leave

1. Global Comparison

- **US Status:**
 - The **only industrialized nation** without paid parental leave.
 - **80% of workers** in the US do not receive paid leave after childbirth or adoption.
 - Around **50% of workers** are not guaranteed unpaid job-protected leave under the Family Medical Leave Act (FMLA).
 - **Global Averages:**
 - **Maternity leave:** 29 weeks paid.
 - **Paternity leave:** 16 weeks paid.
 - Examples:
 - **UK:** 39 weeks of paid maternity leave.
 - **Sweden:** 480 days of shared parental leave.
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2. Challenges in the US

- **Financial Barriers:**
 - 1 in 14 workers annually need leave but cannot afford unpaid time off.
 - **Tough Choices for Parents:**
 - Parents may leave the workforce or leave their newborn in daycare.
 - **Impact on Companies:**
 - Risk of losing **half of the workforce** as parents face challenges.
 - Part of the broader "Great Resignation."
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3. Benefits of Paid Parental Leave

- **Productivity and Retention:**
 - Companies with parental leave policies are **60% more likely** to report above-average financial performance.
 - Examples of company successes:
 - **Google:**
 - Increased paid leave from 12 weeks to 18 weeks.
 - **Retention among young mothers increased by 50%.**
 - **Accenture:**

- Increased paid maternity leave from 8 weeks to 16 weeks.
 - **Attrition among mothers dropped by 40%.**
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4. Importance for HR and Organizations

- **Societal and Workforce Impact:**
 - Losing parents from the workforce has long-term effects on organizations and communities.
 - **HR Responsibility:**
 - Regularly review maternity and paternity policies.
 - Advocate for policies that align with global standards and employee well-being.
 - Use data to demonstrate how paid leave benefits both employees and the company.
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Holiday Pay

1. Legal Requirements and Country Comparisons

- **US Regulations:**
 - The **Fair Labor Standards Act (FLSA)** does not require employers to provide paid or unpaid time off for federal holidays.
 - The US is the **only industrialized country** without a national paid holiday policy.
 - **International Comparison:**
 - **Austria** offers a minimum of **13 paid holidays** per year.
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2. Holiday Pay Policy Recommendations

- **Consistency:**
 - **Consistency** is key when creating holiday pay policies. Ensure all employees are treated fairly.
 - **Floating Holidays:**
 - Floating holidays allow employees to observe **personal or religious holidays** of their choice.
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3. Pay for Nonexempt Employees

- **Holiday Time Off:**
 - Employers **do not have to pay** nonexempt employees for holiday time off unless they work on a holiday.

- However, it's wise to provide **paid vacation** to nonexempt employees if it's offered to exempt employees, ensuring fair treatment.
 - **Overtime Rules:**
 - **Holiday time off** does not count towards overtime calculations. Only hours **worked** count toward overtime.
 - Example: If an employee works 40 hours but gets 8 hours off for a holiday, they do **not** qualify for overtime, as they only worked 40 hours.
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4. Holiday Pay for Employees Working on Holidays

- **Regular Wages:**
 - Employees who work on holidays must receive at least their **regular wages**.
 - **Premium Pay:**
 - Offering **premium pay** (e.g., time and a half) for working on holidays is a **choice** for employers, but not required by US law.
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5. Employee Handbook and Communication

- **Policy in Handbook:**
 - Once a holiday leave and pay policy is created, it should be included in the **employee handbook**.
 - Employees should have easy access to the handbook to refer to holiday pay policies.
 - **Avoid Confusion:**
 - A clear holiday pay policy helps avoid confusion and ensures transparency for all employees.
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Pay Equity

1. The Pay Gap: Equal Pay for Equal Work

- **Global Pay Disparity:**
 - **Women** earn only **77 cents** for every dollar earned by men globally.
 - This disparity persists across all stages of life, leading to women retiring into poverty, missing out on **\$1 million to \$1.5 million** over a lifetime compared to men.
 - **Greater Disparity for Marginalized Groups:**
 - The pay gap is even **wider for women of color** and **LGBTQ+ workers**.
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2. Equal Pay vs Equal Value of Work

- **Beyond Equal Pay:**
 - Simply mandating **equal pay for equal work** is not enough.
 - **Equal pay for equal value** should be the goal, meaning jobs that require **equal skill and responsibility** should be paid the same, even if they are in different sectors (e.g., a cleaner vs. a driver).
 - **Sector Segregation:**
 - Women are often concentrated in **lower-paying sectors**, while men dominate **higher-paying roles**. For true equality, jobs of **equal value** should be compensated equally.
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3. Obstacles for Women in the Workplace

- **Restrictions in Certain Countries:**
 - **90 countries** still restrict women's ability to work in certain roles, e.g., not allowing women to work **at night** or in dangerous jobs like **driving trains** or **working in mines**—roles that tend to be higher-paying.
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4. Practical Steps to Address Pay Equity

- **Anonymizing Resumes:**
 - Removing **gender bias** from the hiring process by anonymizing **resumes** is a significant step toward pay equity.
 - **Salary Negotiation Adjustments:**
 - Eliminate salary negotiations based on gender. Instead, base compensation on **experience and skills** only, ensuring fairness in pay.
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Jury Duty

1. Overview of Jury Duty

- **Mandatory by Law:**

Jury duty is required by law in nearly every state. However, if an employee's absence would significantly affect the employer, they can request the court to excuse or reschedule the service.
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2. Employer's Role in Jury Duty

- **Employer Discretion on Pay:**
 - Most states leave it to the employer's discretion whether to pay employees for jury duty.
 - For example, **California** does **not** require employers to pay employees during jury duty leave.
 - **Other States** may specify how much the employer should pay, if anything.
 - **Jury Duty Leave Policy:**
 - It's essential for companies to have a clear **jury duty leave policy** to manage employee pay and avoid confusion when this issue arises.
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3. Legal Protections for Employees

- **Protection Against Adverse Actions:**
 - Employers are **prohibited** by law from taking **adverse actions** against employees for participating in jury duty. This includes:
 - Harassment
 - Coercion
 - Termination
 - Employees must be allowed to **return to work** after completing their jury duty.
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Termination of Employment and Final Checks

1. Final Paycheck Components

- **Time Worked:**
 - The final paycheck must include all time worked.
 - Non-exempt employees must receive at least minimum wage for all regular hours worked.
 - **Deductions:**
 - No extra deductions should be made for disciplinary actions or property violations, unless stipulated by law.
 - **Exempt Employees:**
 - For exempt employees, their final paycheck can be prorated (partial pay week) based on the days worked.
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2. Timing of Final Paycheck

- **State Variations:**
 - Some states impose penalties if the final paycheck is delayed.
 - California is one of the strictest states; a final paycheck must be issued immediately if terminated or within 72 hours if the employee resigns.
 - In more employer-friendly states, final pay may be issued with the next regular payroll.
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3. Unused Vacation/Sick Time

- **State Law Governs:**
 - The Fair Labor Standards Act (FLSA) does not specify whether unused vacation time or sick leave should be included in the final paycheck.
 - This is determined by state law.
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