

The General Ledger

The Complete Newsletter for Professional Bookkeepers

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Dear AIPB Member:

Those new overtime rules. That new Department of Labor ([DOL](#)) [reg](#) you heard about would affect almost 4 million workers—as well as many executive, administrative and professional workers.

Who would now get OT pay: Many low-paid salaried employees who have been working side-by-side with hourly employees, doing the same tasks and often working over 40 hours a week. The new threshold would be for those making less than \$55,068 a year (\$1,059 a week)—an increase from the existing \$35,568 (\$684 a week), in place since 2019.

When this might happen: At least 60 days after publication of a Notice of Proposed Rulemaking in [The Federal Register](#). The 60 days is the period for public comment. **Key event:** DOL issuing a final reg—if it does so.

Alert: Taxpayer rights violations on the rise.

Substantially higher IRS funding has led to a surge in IRS employees and a spike in taxpayer rights violations, according to the Treasury Inspector General for Tax Administration.

Popular violation: IRS employees talking directly to a taxpayer who is represented by a tax pro, especially when the issue is a delinquency (failure to pay a tax). Some new IRS employees are contacting the taxpayer

directly, in person or by phone, instead of going through their tax pro. This is a direct violation of the taxpayer's rights and IRS policy.

The violators: IRS new hires and hires in training.

What to do: Once the IRS knows the taxpayer has professional representation, it cannot contact the taxpayer directly. If it does, remind the IRS rep of the professional representation, end the conversation, and have the tax pro file a complaint. [*Tax Notes Today*]

New OCCS services help employers. The federal Office of Child Support Services (OCSS) is developing another way to send and respond to electronic Income Withholding for Support Orders (e-IWOs) and electronic National Medical Support Notices (e-NMSNs). Email addresses: elWOMail@acf.hhs.gov and eNMSNmail@acf.hhs.gov.

Currently, employers must have an internal server (if you don't know what this is, ask your tech) to participate in either one. If you don't have one, your company or client will have access to eIWO Online later this year, and to eNMSN either later this year or early in 2024.

Benefits:

- Reduce the mistakes of manual processing.
- Remote access cuts HQ staff paperwork.

continued

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- Time and money saved on p/h.
- Automatic notification of terminations.
- Faster implementation of IWOs/NMSNs.
- Instant child support agency notices of when medical support mandates end.

Reminder: Employers can repay student

loans tax free. With the fall school term underway, the IRS reminds employers that they can still repay employee student loans directly to the lender or as reimbursement to the employee. The tax-free period ends Dec. 31, 2025. [IR-2023-152]

IRS targeting inflated COGS. The IRS recently added “inflated cost of goods sold” (COGS) to its active campaigns.

Targets: COGS exceeds sales/industry norms.

IRS focus: Tax credits for wages not deducted before computing COGS. Example: BizCo takes tax credits for some wages but includes gross wages in COGS—instead of including gross wages less the tax credits.

[Tax Notes Today]

ERC update. IRS processing of 941s is being slowed by IRS scrutiny of forms with Employee Retention Claims (ERC).

Yes, the ERC was created during the pandemic to help employers keep employees on the payroll while businesses were closed due to the pandemic—but the credit was changed several times and is confusing, making it difficult for employers to know the amount of the ERC they are eligible for.

Common ERC errors: Some consultants are incorrectly telling employers they can claim the credit though they also took PPP loans. Or the amount of wages and other expenses eligible for the credit is overstated. And there are other mistakes, most of which inflate the credit.

Warning to tax preparers: Do not sign client returns that include ERC claim amounts determined by other firms unless professionals have reviewed the claims and are confident they are correct. The risk: penalties even if you did not compute ERC amounts.

[Tax Notes Today]

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Liability for employment taxes. This case could apply to many bookkeepers. It is particularly scary because the IRS came after this individual 3 years after the employer went out of business.

The case: When Y was hired, he was not expected to be involved in day-to-day accounting or financial functions. These were handled by a controller, an experienced CPA.

When Y's employer ran into financial trouble, ceased operating, and entered Chapter 7 bankruptcy proceedings, Y resigned.

But 3 years later, the IRS found that Y's employer still had outstanding payroll tax obligations and assessed Y personally for them. Y said he was not a "responsible person" and did not "willfully" cause the taxes not to be paid.

Held: For the IRS. The court agreed that the taxpayer lacked the authority to give orders to the controller, who oversaw bills, prepared checks and had the taxpayer sign them. And the CEO had final approval of all payments and was consulted about issues regarding bills.

But the taxpayer had authority to make payments up to a certain amount, even though he did not have the passwords to access the electronic account the controller used to pay taxes.

Key point: Although the taxpayer said he was not a responsible person, the court emphasized that he did have the authority to pay the taxes—despite lacking control over finances. And he had the authority to pay the taxes if he so chose—but he chose not to exercise this authority.

Undermining his defense still further, several years before the company filed for bankruptcy the taxpayer had become aware that it was behind on its payroll taxes and reported this to senior management. He then worked with senior management to resolve the matter. This showed he had authority to cause the payroll taxes to be paid.

And he was aware of cash flow problems throughout his tenure and should have made sure payroll taxes were current. [*York v. U.S.*, No. 20-56047 (9th Cir. 2023)]

REVIEW OF THE BASICS

To double-check gross profit, compare markup to gross profit/net sales. A big difference indicates inaccurate sales, purchase, inventory or related data.

Example: BizCo marks up merchandise to get a 33% gross profit on sales. If, for 2023, it has \$320,000 in gross sales, \$20,000 in returns/allowances, and \$200,000 in COGS, it has a 33% gross profit. **To compute:** $\$100,000/\$300,000 = 33\%$ (rounded).

When are employees full- v. part-time? This is up to the employer and varies—e.g., if Al regularly works 35 hrs./wk., he may be full time; 20 hrs./wk. may be "regular part-time." Some employers prorate benefits for part-timers; others offer them no benefits. Whatever your company or client does should be in written company policy.

Never alter time on a timecard. If Jane punched in early or stayed late, pay it. Deal with disciplinary problems away from the time card.

STATE NEWS

If you are in the affected state, you may already know about the items reported below. We report them for members whose company has multistate locations.

California. As of Sept. 1, 2023, the maximum subject to levy for any workweek is the lesser of 20% of disposable earnings or 40% of the amount by which the week's disposable earnings exceed 48 x the state minimum wage. [[S.B. 1477, L. 2022](#)]

Colorado. The 2024 minimum wage is \$14.42; the tip credit remains at \$3.02; and the minimum tipped employee cash wage is \$11.40. [Department of Labor and Employment, Division of Labor Standards and Statistics, [Annual Minimum Wages](#)] Denver 2024 minimum wage is \$18.29; tip credit remains at \$3.02; tipped employee minimum cash wage, \$15.27. [City of Denver, [Minimum Wage](#)]

Indiana. There is a [revised WH-4, Employee's Withholding Exemption and County Status Certificate](#). The changes: A new checkbox for an employee who moves or works in another county after Jan. 1 and wants to request changing the county of work or residence for the next calendar year. Also, Line 7 has been added to claim a dependent child for a one-time exemption of \$3,000. [DOR, Tax Bulletin, August 2023]

Iowa. 2024 UI tax rates are unchanged, but the UI base is \$38,200. [Workforce Development, 8-28-23]

Michigan. The 2024 UI wage base remains at \$9,500. [Department of Labor and Economic Opportunity, [Michigan Employer Advisor](#), August 2023]

Minnesota. The 2024 minimum wage for large employers (annual gross revenues of \$500,000 or

more) is \$10.85; for small employers (annual gross revenues of less than \$500,000) is \$8.85; and the 90-day training wage and youth wage is \$8.85. No tip credit is permitted. [DOL [News Release](#), 8-23-23]

Montana. For tax years starting on or after Jan. 1, 2024, employers are not required to withhold SIT from nonresident wages earned for work within the state until an employee spends more than 30 days performing work for the employer. See [H.B. 447](#).

Nevada. The 2024 UI taxable wage base is \$40,600. [UI Tax Services, [Taxable Wage Base](#)]

Oregon.

- As of 2024, the maximum PFML contribution is 1% of the federal SS wage base.
- Retroactive to Jan. 1, 2023, when an employer pays the employee's share of PFML, it is excluded from PFML wages (the test for PFML wages is similar to the test used for UI wages). [[S.B. 913](#), L. 2023]
- As of Sept. 1, 2023, PFML information may be disclosed to additional parties, including employers and claimants. And employees can use all or a portion of other paid leave in addition to PFML benefits.
- [SB 999](#) amends for leave purposes the definition of a 1-year period, expands who qualifies as a family member, and adds employee reinstatement requirements under the [Family Leave Act](#). There are other changes. Most are in effect as of Sept. 3, 2023.

Rhode Island. Effective as of 2024, [Senate Bill S0444A](#), June 19th (Juneteenth) is a state holiday.

QUESTIONS AND ANSWERS

What exactly is backup withholding?

This is FIT the payer withholds from nonemployee compensation if not given a TIN or if the IRS tells the payer that the TIN is incorrect. The 2023 backup rate is 24%.

Backup withholding is often confused with supplemental withholding, which is FITW on irregular wages made to employees outside of their regular wages, such as overtime, bonuses, commissions and more. The 2023 supplemental withholding rate is 22%.

If I hire Sue for 25 hours a week and she works 35 hours, must I pay her overtime?

No. Under federal law, overtime pay is required only for hours worked over 40 in a workweek.

What is constructive receipt?

Constructive receipt occurs on the day that wages are "available to the employee without substantial limitation." [IRS Reg. §1.451-2; §31.3121(a)-2; §31.3301-4]

In which quarter are wages reported—the quarter when earned or the quarter when paid?

Wages are reported for federal employment tax purposes in the quarter actually or constructively received.

Are flat mileage reimbursements taxable?

Reimbursements of the flat mileage rate for business miles in an employee's vehicle are nontaxable if time, place and business purpose are substantiated. Failure to substantiate or return amounts not used for business expenses subjects the *entire* reimbursement—including the flat mileage rate—to FIT, FITW, FICA and FUTA. Withhold upon reimbursement.

FINAL WAGE PAYMENTS

2023 state-by-state rules. Federal law does not cover when an employee who is leaving must receive a final wage payment—but state laws may. And in some states, the due date for final pay depends on whether the employee was fired or quit.

A final paycheck should include the employee's most recent pay period wages along with all other types of compensation, such as accrued vacation, bonuses and commissions.

But the fact that state law does not require paying unused paid time off and/or accrued unused

vacation does not bar an employer from doing so. However, any such policy should be in writing.

You may be able to withhold money from a last paycheck if the employee owes the company money—and you have the employee's written authorization to do so. For example, an employee may not have repaid a salary advance. *Before withholding money owed the company, check state rules.*

Note that some states apply different rules in the event of a business closure or mass layoff.

State	Final pay deadline	
	The employee was fired	The employee quit
Alabama	Not covered by state law.	Not covered by state law.
Alaska	Within 3 working days	Next scheduled payday or, if notice was given, within 3 days
Arizona	Within 7 working days or next payday, whichever is first	Next scheduled payday
Arkansas	Within 7 days	Within 7 working days
California	Immediately	If employee gives 72 hours' notice, immediately. If the employee does not give 72 hours' notice, within 72 hours of quit date.
Colorado	Immediately	Next scheduled payday
Connecticut	Next business day	Next scheduled payday
Delaware	Next scheduled payday	Next scheduled payday
District of Columbia	Next business day	The earlier of the next payday, or within 7 working days
Florida	Not covered by state law.	Not covered by state law.
Georgia	Not covered by state law.	Not covered by state law.
Hawaii	Immediately or, if conditions warrant, next business day	Next scheduled payday. If the employee gives at least 1 pay period's notice, pay on quit date
Idaho	The earlier of the next regular paycheck or within 10 days—but if the employee makes a written request for final pay, then within 48 hours of the request, excluding weekends and holidays	The earlier of the next regular paycheck or within 10 days or within 48 hours of employee's written request—but if the employee makes a written request for final pay, then within 48 hours of the request, excluding weekends and holidays
Illinois	Next scheduled payday	Next scheduled payday
Indiana	Next scheduled payday	Next scheduled payday
Iowa	Next scheduled payday	Next scheduled payday

continued

Kansas	Next scheduled payday	Next scheduled payday
Kentucky	The later of the next regular payday or within 14 days	The later of the next regular payday or within 14 days
Louisiana	The earlier of the next regular payday or within 15 days	The earlier of the next regular payday or within 15 days
Maine	The earlier of the next scheduled payday or within 2 weeks of an employee demand	The earlier of the next scheduled payday or within 2 weeks of an employee demand
Maryland	Next scheduled payday	Next scheduled payday
Massachusetts	Immediately	The earlier of the next scheduled payday or the Saturday following resignation
Michigan	Next scheduled payday	Next scheduled payday
Minnesota	Immediately	Next regular payday that is at least 5 days after the employee's last day and no more than 20 days after
Mississippi	Not covered by state law.	Not covered by state law.
Missouri	Immediately	Next regular payday
Montana	Immediately—but if the employer has a written policy of payment by the next regular payday, pay the earlier the written policy or 15 days from separation.	The earlier of the next regular payday or within 15 days
Nebraska	The earlier of the next regular payday or within 2 weeks	The earlier of the next regular payday or within 2 weeks
Nevada	Immediately (failure to pay within 3 days incurs penalties)	The earlier of the next payday or within 7 days
New Hampshire	Within 72 hours	Next payday or, if employee gave at least 1 pay period notice, within 72 hours
New Jersey	Next scheduled payday	Next scheduled payday
New Mexico	Within 5 days–10 days for pay based on tasks, piecework or commissions	Next scheduled payday
New York	Next scheduled payday	Next scheduled payday
North Carolina	Next scheduled payday	Next scheduled payday
North Dakota	Next scheduled payday	Next scheduled payday
Ohio	The earlier of the next scheduled payday or within 15 days	The earlier of the next scheduled payday or within 15 days
Oklahoma	Next scheduled payday	Next scheduled payday
Oregon	Next business day	Immediately, if the employee gave 48 hours' notice; otherwise, the earlier of the next scheduled payday or within 5 days
Pennsylvania	Next scheduled payday	Next scheduled payday
Rhode Island	Next scheduled payday	Next scheduled payday

continued

South Carolina	The earlier of the next scheduled payday or within 48 hours	Not covered by state law.
South Dakota	Next scheduled payday or when the employee returns company property	Next scheduled payday or when employee returns company property
Tennessee	The earlier of the next scheduled payday, or within 21 days	The earlier of the next scheduled payday, or within 21 days
Texas	Within 6 days	Next scheduled payday
Utah	Within 24 hours	Next scheduled payday
Vermont	Within 72 hours	Next scheduled payday—if no regular payday, the next Friday
Virginia	Next scheduled payday	Next scheduled payday
Washington	Next scheduled payday	Next scheduled payday
West Virginia	Next scheduled payday	Next scheduled payday
Wisconsin	Next scheduled payday or within 1 month	Next scheduled payday
Wyoming	Next scheduled payday	Next scheduled payday

FREELANCING

Frauds target independent accounting professionals. Whether they know it or not, tax pros are under a steady barrage of schemes seeking to gain access to sensitive taxpayer data, the IRS says. You are legally required to protect taxpayer data and could be liable for breaches.

IRS recommendation: Separate your business and personal activities—e.g., separate business and personal computers, mobile devices and email accounts.

For example, do not send business information to personal email addresses or devices. Do not share USB drives or external hard drives between business and personal computers or devices. Similarly, do not use a business device to conduct personal activities such as online browsing or reading, checking personal email, shopping, and playing games.

If you work from home, full- or part-time, use virtual private networks to conduct business online.

These recommendations are in addition to the longstanding advice to have strong passwords that are changed regularly and to use caution before downloading documents or clicking links.

Warning signs of a data breach:

You experience:

- a slow or unexpected computer response;
- a computer's cursor moving on its own;
- rejection of a client's tax return because the taxpayer's ID number already was used on another return;

Your clients receive:

- a tax transcript they did not request;
- a refund without filing a return;
- an incorrect balance due or other notice from the IRS.

[IR-2023-147; IR-2023-143]

Quiz

1. EWA, a relatively recent payroll financial product, stands for _____.
2. EWA allows employees to get a portion of their _____ prior to payday.
3. One major category of EWA providers is "_____-_____" services—which refers to payroll services that work directly with the employer.
4. Another major category of EWA providers is "_____-_____-_____" firms that sign up with the employer to provide earned wages to employees upon request but are not payroll services.
5. The key to booking credit card sales is understanding that there are two major kinds of credit cards—bank credit cards and nonbank credit cards. For booking purposes, the principal difference is when your company receives the _____.
6. The costs of education for maintaining or improving skills required in the current job or business, or required by the employer, are (deductible/nondeductible).
7. The costs of education that qualifies someone for a new trade or business are (deductible/nondeductible).
8. When goods are shipped F.O.B. shipping point, freight and insurance costs are incurred by the (buyer/seller)—when shipped F.O.B. destination, freight and insurance are incurred by the (buyer/seller).

Answers: 1. earned wage access 2. earned pay 3. employer integrated 4. direct to consumer 5. cash payments 6. deductible 7. nondeductible 8. buyer, seller

Rates, Due Dates & IRS Limits

CPI-U

August 2023 CPI-U 3.7%

1. Covers all goods/services purchased by urban consumers.
2. Goods costing \$1,000 in August 2022 cost \$1,037 in August 2023.

September 2023 CPI-U Available October 12, 2023

For other CPI indices and more details: 202-691-7000

200% GDS nonfarm MACRS property rates

	5-year property*	7-year property**
Year 1	20.00%	14.29%
Year 2	32.00	24.49
Year 3	19.20	17.49
Year 4	11.52	12.49
Year 5	11.52	8.93
Year 6	5.76	8.92
Year 7		8.93
Year 8		4.46

* Autos, trucks, computers/peripherals, typewriters, calculators, etc.

** Furniture and fixtures, desks, files, etc.

2023 IRS depreciation limits

Covers new and used passenger autos (cars), electric cars and light* SUVs, pickups and vans placed in service in 2023.

	With 2023 80% bonus depreciation	No bonus used
1 st year	\$20,200	\$12,200
2 nd year	\$19,500	\$19,500
3 rd year	\$11,700	\$11,700
4 th yr. and after	\$ 6,960	\$ 6,960

* 6,000 lbs. or less, built on truck chassis and not specially modified.

Federal per diems

[Within the continental U.S.](#)

[Outside the continental U.S.](#)

Payroll rates and bases

2023

Employee SS and Medicare	6.20%/1.45%*
Employer SS and Medicare	6.20%/1.45%
Social Security wage limit	\$160,200
Medicare wage limit*	Unlimited
FUTA-taxable wage base	\$7,000
FUTA rate	6.0%
FUTA maximum credit	5.4%
Min. FUTA deposit rate (most firms)	0.6%

* Withhold added Medicare tax of .9% on wages over \$200,000.

Standard mileage rates

July 1-Dec 31 2022

2023

Business*	62.5¢/mi.	65.5¢/mi.
Relocation**	22¢/mi.	22¢/mi.
Medical	22¢/mi.	22¢/mi.
Charitable rate	14¢/mi.	14¢/mi.

* For owned/leased passenger autos, vans, pickups or panel trucks and up to 4 taxis used for hire on which no §179 or depreciation was taken.

** Starting in 2018, all relocation payments are taxable to the employee and tax deductible for the employer.

Qualified retirement plan limits

2023

Pretax contributions for 401(k) and SEP plans and 403(b) annuities	\$ 22,500
Workers aged 50 or over (catch-up)	\$ 7,500
Sec. 415(b)(1)(A) defined benefit plan annual benefit ceiling	\$265,000
Combined employer/employee pay-in limits for all defined contrib. plans	\$ 66,000
Annual compensation limit under Sec. 401(a)(17) and Sec. 404(1)	\$330,000
Sec. 408(k)(3)(C) IRA, SEP or SIMPLE plan limits	\$330,000
SIMPLE pretax contribution limit	\$ 15,500
Workers aged 50 or over (catch-up)	\$ 3,500

IRS forms and pubs 800-829-3676

Applicable Federal Rates (AFR) for October 2023

Under [IRC §1274](#), if your firm extends a loan due more than 6 months after a customer purchased or exchanged an item and there is no stated interest rate, the IRS imputes one. The IRS-imputed interest rates for October 2023 are as follows:

	Annual	Semiannual	Quarterly	Monthly
Short-term: 3 years or less	5.22%	5.15%	5.12%	5.10%
Mid-term: Over 3 but not more than 9 years	4.43%	4.38%	4.36%	4.34%
Long-term: Over 9 years	4.46%	4.41%	4.39%	4.37%

Tax Calendar

Due date	Day of week	Deposit FICA and FITW for wages paid for the period from
Oct. 16	Mon.	Deposit Tax Liabilities for September 2023.
Oct. 18	Wed.	Oct. 11 – 13 Fri.
Oct. 20	Fri.	Oct. 14 – 17 Tues.
Oct. 25	Wed.	Oct. 18 – 20 Fri.
Oct. 27	Fri.	Oct. 21 – 24 Tues.
Oct. 31	Tues.	<ul style="list-style-type: none"> • File 3rd q. 941 if all deposits were not made timely and in full. • Deposit FUTA owed through September if more than \$500.
Nov. 1	Wed.	Oct. 25 – 27 Fri.
Nov. 3	Fri.	Oct. 28 – 31 Tues.
Nov. 8	Wed.	Nov. 1 – 3 Fri.
Nov. 11	Sat.	Veterans Day—for holidays that fall on Saturday, most banks are open the preceding Friday.
Nov. 13	Mon.	Form 4070 due from tipped employees.
Nov. 13	Mon.	File 3rd q. 941 if all deposits were paid timely and in full.
Nov. 13	Mon.	Nov. 4 – 7 Tues.

- The only acceptable reason for delaying deposit of payroll taxes due is a legal federal holiday.
- Deposits of \$100,000 or more must be made within one business day of the day that the tax liability is incurred.