



**10 PAYROLL THINGS
THAT HR
PROFESSIONALS NEED
TO KNOW**

Anne-Marie Walker, CPP
Senior Corporate Payroll Manager
Chenega Corporation

Those 10 Things

Partnering with Payroll

Forms W4, W2 & State Forms

Payment of Wages

Overtime

Taxable and Nontaxable Wages

Relocation

Record Retention

Unemployment Tax and Unemployment Claims

Employee – Independent Contractors

Department of Labor

Partnering with Payroll

Friends or Foes?

Far more in common than not!

- Audits
- Common data bases
- Complex compliance requirements
- Confidentiality policies
- Same internal customers

Partnering with Payroll

Encourage collaboration-invite payroll

- Considering new types of compensation
- Considering a creative addition to your benefits
- Negotiating new union contracts
- Communicate constantly and consistently
- Focus on the customer-our employees

Build a sense of teamwork and partnership between HR and Payroll

- Share opening part of staff meetings
- Joint department lunches
- Friendly competitions

Form W-4 - Employee's Withholding Allowance Certificate

Newly hired EE's should complete Form W-4 on or before the first day of work.

If a new hire EE, withhold as if the EE were single with zero exemptions or allowances

If current EE refuses to provide a valid W-4, do not change the information, keep withholding according to the most recent valid W-4

ER's are NOT responsible for verifying the accuracy of the information provided, but ER's can not knowingly accept an invalid W-4

Exempt status in effect for 1 calendar year and requires a new W-4 by February 15th of the following year to keep the exempt status

Watch out for:

- Giving tax advice (refrain from giving tax advice)
- Students claiming exempt
- Nonresident aliens (if claiming exempt, but also the new form every year)

Reject a Form W-4 when unauthorized alterations or striking of any language

Form W2 - Wage and Tax Statement

Form W-2 Reference Guide for Box 12 Codes

A	Uncollected social security or FRTA tax on tips	K	20% excise tax on excess golden parachute payments	V	Income from exercise of nonstatutory stock options
B	Uncollected Medicare tax on tips (but not Additional Medicare Tax)	L	Substantiated employee business expense reimbursements	W	Employer contributions (including employee contributions through a cafeteria plan) to an employer's health savings account (HSA)
C	Taxable cost of group-term life insurance over \$50,000	M	Uncollected social security or FRTA tax on taxable cost of group-term life insurance over \$50,000 (former employees only)	Y	Deferrals under a section 408A nonqualified deferred compensation plan
D	Elective deferrals to a section 401(k) cash or deferred arrangement plan (including a SIMPLE 401(k) arrangement)	N	Uncollected Medicare tax on taxable cost of group-term life insurance over \$50,000 (but not Additional Medicare Tax/former employees only)	Z	Income under a nonqualified deferred compensation plan that fails to satisfy section 408A
E	Elective deferrals under a section 403(b) salary reduction agreement	P	Excludable moving expense reimbursements paid directly to employee	AA	Designated Roth contributions under a section 401(k) plan
F	Elective deferrals under a section 408(a)(6) salary reduction SEP	Q	Non-taxable combat pay	BB	Designated Roth contributions under a section 403(b) plan
G	Elective deferrals and employer contributions (including non-elective deferrals) to a section 457(b) deferred compensation plan	R	Employer contributions to an Archer MSA	CC	HIRE exempt wages and tips (2010 only)
H	Elective deferrals to a section 501(c)(18)(2) tax-exempt organization plan	S	Employee salary reduction contributions under a section 408(g) SIMPLE plan	DD	Cost of employer-sponsored health coverage
J	Non-taxable sick pay	T	Adoption benefits	EE	Designated Roth contributions under a governmental section 457(b) plan


State Tax Forms & Local Taxes

State Withholding

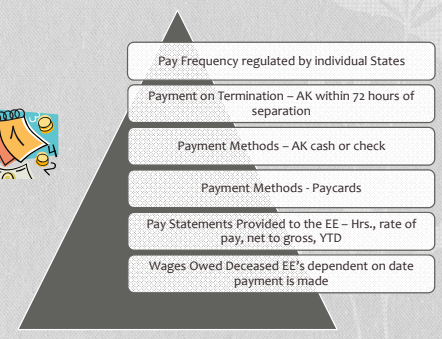
- All but 9 states have income tax and require employers to withhold from wages
- W4 ok – 20 states
- W4 no allowed withhold at highest rate

Local Payroll Taxes

- City Services-employee
- City, County & School District-employee
- Expense Tax or Head Tax-employer
- Occupational Privilege Tax – employee/employer
- Transit Tax-employer
- AL CA CO DE IL IN KY MD MI MO NJ NY OH OR PA WV



Paying the Employee



- Pay Frequency regulated by individual States
- Payment on Termination – AK within 72 hours of separation
- Payment Methods – AK cash or check
- Payment Methods - Paycards
- Pay Statements Provided to the EE – Hrs., rate of pay, net to gross, YTD
- Wages Owed Deceased EE's dependent on date payment is made

Fair Labor Standards Act (FLSA)

The FLSA establishes standards for workers, both FT and PT, in the private and public sectors for

- Minimum wage
- Overtime pay
- Recordkeeping
- Child labor

FLSA applies to businesses with


- At least 2 employees
- Engage in interstate commerce, produce goods for interstate commerce, or
- Handle, sell, or work on goods or materials that have been moved in or produced for interstate commerce.
- Gross Sales of at least \$500k

It does NOT

- Require paid vacation, sick time, jury, holiday, or coffee breaks
- Regulate pay frequency or termination pay (but pay must be paid for regular paydays)
- Restrict hours that employees over 16 can be required to work
- Areas left unregulated by FLSA are usually regulated by state agencies
- If FLSA and State agency cover the situation, you must do what is advantageous to the employee.

Certain businesses are covered by FLSA regardless of annual sales:

- Hospitals
- Nursing homes
- Elementary and secondary schools, and colleges
- Public agencies



FLSA Overtime (OT) Regulations

Unless specifically exempted, EE's covered by FLSA receive OT pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half their regular rate of pay.

Averaging of hours over 2 or more workweeks is not permitted. OT pay earned in a particular workweek must be paid on the regular pay day for the period the wages were earned.

There is no limit within FLSA on the # of hrs. EE's aged 16 and older may work in any workweek.

Does not require OT pay for work on Saturdays, Sundays, holidays, or regular days of rest.

Different workweeks may be established for different EE's or groups of EE's.

FLSA OT applies on a per workweek basis.

Taxable & Non-Taxable Compensation


The Internal Revenue Code (IRC) provides that all compensation an EE receives from an ER, no matter what form it takes, constitutes wages subject to federal income and employment taxes.

The IRC does not define the term "fringe benefit" though it, along with the IRS Regulations, give many examples of fringe benefit that are both included and excluded from income such as :

- Employer-provided cars
- Vacations
- Discounts
- Tickets to entertainment or sporting events
- Dependent care assistance
- Qualified transportation fringes
- De minimis fringes, etc.

Relocation –IRS Publication 521

- Exclude from income (**non-taxable**) if distance 50+ miles and 39 weeks in 12 months
 - Transportation of household goods including vehicle
 - Traveling expenses such as airfare and lodging during move
 - Box 12 Code P of form W2 for any amounts reimbursed directly to the employee
- Include in income (**taxable**)
 - Meals
 - Storage during and after the transition period – 30 days
 - Cash allowances
 - Temporary living
 - House hunting trips
 - Box 13,5 of form W2

In a nutshell: 

Record Retention Regulations



Internal Revenue Service records must be kept for four years after the tax due date or the actual date paid

- Name, address, occupation, and social security number of each EE
- Total compensation, date paid including tips and non-cash payments
- Compensation subject to WN for FIT, SS and Medicare tax
- Pay period for each compensation period
- Explanation of difference in total compensation and taxable compensation
- EE's Form W-4
- Dates of employment (beginning and ending)
- EE tip reports
- Wage continuation made to an absent EE by ER or 3rd party
- Details of fringe benefits provided to EE
- Copy of EE's request to use the cumulative method of wage withholding
- Adjustments or settlement of taxes
- Amounts and dates of tax deposits
- Total compensation paid to EE during calendar year
- Compensation subject to FUTA
- SUTA contributions made
- All information shown on 940
- Copies of ALL returns filed

Department of Labor (DOL) records must be kept for three years after date of last entry

- EE's name as it appears on social security card
- Complete home address and date of birth if under age 19
- Sex and occupation
- The beginning of the EE's work week
- Regular rate of pay for weeks that have OT
- Hours worked each workday and workweek (timesheets)
- Straight-time earnings including the ST portion of OT
- OT premium earnings
- Total wages paid including additions and deductions
- Date of payment and pay period covered
- Record showing total sales volume and goods purchased

Some DOL records must be kept for two years after the last date of entry

- Employment and earnings records, EE hours of work, basis for determining wages and wages paid
- Order, shipping and billing records showing customer's orders and delivery records
- Wage rate tables and piece rate schedules
- Work time schedules that establish hours and days of employment
- Collective bargaining agreements

Federal and State Unemployment Tax

FUTA

- Full rate is 6%, reduced by 5.4% if all State Credit requirements are met
- Credit Reduction occurs if –
 - loans taken out by a State is not paid by the following calendar year, FUTA credits are reduced by .3% for each year and those amounts are paid against the state's loan balance
- ER's covered by FUTA must file Form 940 by 1/31 unless they have paid all tax due, then they have until 2/10 to file the form
- Schedule A - Multi-State employer and credit reduction information is listed here
- Attached to Form 940

Payment can be made using EFTPS same as Form 941 payments, just select Form 940

SUTA

- Alaska ER Rates are affected by multiple factors but are only calculated on wages up to \$37,400 (\$110.78 max) for 2014
- Payroll stabilization rate determination is based on fluctuations in wage payments quarter to quarter
- Surcharges and assessments can make up part of the cost of UI (e.g. FUTA loans)
- New ER's- rates for most states until a rate can be determine based on past payroll
- Successor ER's are generally assigned the same rate as the predecessor company
- Alaska EE Rate is 0.62% of wages up to \$37,400 (\$231.88 Max) for 2014

Unemployment Claims


Unemployment Compensation Program Integrity - Trade Adjustment Assistance Extension Act

- US Department of Labor study found that 11% of UI claims were erroneous.
- Federal mandate that require states amend their laws to include penalties for claimants and employers.
- Employers who fail to respond timely or provide inaccurate information
 - Pattern of failure – defined by the state
 - Mandates penalties and loss of credits to the account when funds are recovered

Employee or Independent Contractor?

Form SS-8

- An employer can file this form to get a definitive ruling. "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding" – IRS will make status determination for you. Until you know, treat the person as an employee



Form SS-8 is broken into 5 parts:

- Part 1 – General Information
- Part 2 – Behavioral Control
- Part 3 – Financial Control
- Part 4 – Relationship
- Part 5 – Specific to Salesperson/Service Providers

The Employer/Employee Relationship

Common Law Test

- Key Concept: **CONTROL** – The right to control what work will be done and how that work will be done

Behavioral control

- Level of Instructions
- Level of Training

Financial control

- Are some business expenses un-reimbursed?
- Substantial investment
- Services available publicly
- How worker is paid (usually by the job)
- Can they realize a profit or loss?

Type of relationship

- Written agreement / contract
- Employee type benefits provided
- Term of relationship
- Services an important aspect of regular operations?

Reasonable Basis Test

- Section 530 of Revenue Act of 1978 – certain workers may be treated as independent contractors and exempt from federal payroll tax laws if it has a "reasonable basis"

Court decision

Published IRS Rulings

Private letter ruling

Consistent treatment is mandatory

Worker Misclassification Penalties

Unintentional misclassification

- No FIT WH - tax assessed = 1.5% of wages paid
- No FIT **and** failure to file information return with IRS – tax assessed = 3% of wages paid
- No SS/Med taxes WH – tax assessed = 20% of EE share (NOTE: 100% of ER share must be paid)
- No SS/Med taxes **and** failure to file information return (1099-MISC) – tax assessed = 40% of EE share (NOTE: 100% of ER share must be paid)

Intentional misclassification

- If the employer intentionally misclassifies a worker after determining employer-employee relationship exists, special assessments (previous slide) do not apply
- Employer is now liable for 100% of FIT and 100% of EE & ER SS/Med taxes

NOTE: employer also subject to other penalties for failure to file returns or remit taxes as well as STATE penalties

Department of Labor

“Our Mission
To foster, promote and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.”

Department of Labor

DOL proposed 2015 budget includes and increase of more than \$41 million dollars for the W&H to ensure compliance with regulations and \$14 million dollars to combat the misclassification of workers as independent contractors.

Fiscal year 2013 W&H recovered nearly a quarter billion dollars for 269,250 workers.



Email
Anne-Marie.Walker@chenega.com

Thank you for your time!
