

Welcome to our Thirty Third Edition of Pay-Net's E-Newsletter. Previous editions of our E-Newsletter are available on our web site, [www.pay-net.net](http://www.pay-net.net), under the "Employer Resources – Newsletter" section. We want to welcome all of our new clients that started processing with us this month. Our E-Newsletter is published about 10 times per year. If any other people in your organization would like a copy of our E-Newsletter, please send a request by email to: [operations@pay-net.net](mailto:operations@pay-net.net)

**Please Keep Your E-Mail Addresses Current** When you have personnel changes, remember to send us any e-mail address changes. You can send these to [operations@pay-net.net](mailto:operations@pay-net.net). This way our list will remain current.

**Pay-Net E-Mail Addresses:** If you need to communicate with us, we recommend that you send us an email. This practice will provide you, and us, a hard copy of the communication. Here are Pay-Net's current email accounts. We want to welcome Ivan to our Pay-Net family. Ivan will be taking Bruce's place in Technical Support.

Wayne Lee (Owner):	<a href="mailto:wayne@pay-net.net"><u>wayne@pay-net.net</u></a>
Hollis (Operations):	<a href="mailto:hlee@pay-net.net"><u>hlee@pay-net.net</u></a>
Gloria (Operations):	<a href="mailto:gbal@pay-net.net"><u>gbal@pay-net.net</u></a>
Dan (Operations):	<a href="mailto:danr@pay-net.net"><u>danr@pay-net.net</u></a>
Emily (Operations):	<a href="mailto:emilyb@pay-net.net"><u>emilyb@pay-net.net</u></a>
Anna (Taxes):	<a href="mailto:atudor@pay-net.net"><u>atudor@pay-net.net</u></a>
Ivan (Technical):	<a href="mailto:idiaz@pay-net.net"><u>idiaz@pay-net.net</u></a>
General Communication:	<a href="mailto:operations@pay-net.net"><u>operations@pay-net.net</u></a> (this will be forwarded to the appropriate person)
Debbie (Sales):	<a href="mailto:dwillett@pay-net.net"><u>dwillett@pay-net.net</u></a>
Amabel (Sales):	<a href="mailto:amabelh@pay-net.net"><u>amabelh@pay-net.net</u></a>

Of course, if you need to talk with us immediately, we do answer the phones with *live* people, not voice mail. If you happen to get into our voice mail system, be assured that all of us are on the phone when you called.

**Pay-Net's web site:** If you have the opportunity, please visit our web site at [www.pay-net.net](http://www.pay-net.net) and let us know what you think about it. Send your responses to [operations@pay-net.net](mailto:operations@pay-net.net). The information is identical as before, we have just placed it in different categories and had a professional design team help with the development. Now, we have a special section for our clients called "Employer Resources" that contain valuable information you need to assist your company.

**"Challenging" Payroll Dates:** Please take notice of the following dates as you prepare your payroll information.

► April 30<sup>th</sup> falls on a Monday. If you normally date your checks for the End of the Month and you have direct deposit, we will need your payroll information by 3:00 pm on Thursday, April 26<sup>th</sup>.

- ▶ May 5<sup>th</sup> falls on a Saturday. If you normally date your checks for the 5<sup>th</sup>, and you have direct deposit, we will need your payroll information by 3:00 pm on Wednesday, May 2<sup>nd</sup>.
- ▶ May 15<sup>th</sup> is on a Tuesday. If you normally date your checks for the 15<sup>th</sup> and you have direct deposit, we will need your payroll information by 3:00 pm on Friday, May 11<sup>th</sup>.
- ▶ May 20<sup>th</sup> is on a Sunday. If you normally date your checks for the 20<sup>th</sup>, and you have direct deposit, we will need your payroll information by 3:00 pm on Wednesday, May 16<sup>th</sup>.
- ▶ **Monday, May 28<sup>th</sup>, is the Memorial Day Holiday. This is a banking holiday, and Pay-Net will be closed that day. Please take this into account as you prepare your payroll information.**
- ▶ June 5<sup>th</sup> falls on a Tuesday. If you normally date your checks for the 5<sup>th</sup> and you have direct deposit, we will need your payroll information by 3:00 pm on Friday, June 1<sup>st</sup>.
- ▶ June 30<sup>th</sup> and July 1<sup>st</sup> both occur on a weekend. If you normally date your checks for the end of the month, or the 1<sup>st</sup> of the month, your check date has rolled back to Friday, June 29<sup>th</sup>. If you normally date your checks for either of these days and you have direct deposit, we will need your payroll information by 3:00 pm on Wednesday, June 27<sup>th</sup>.
- ▶ **July 4<sup>th</sup> is the Independence Day Holiday and it occurs on Wednesday this year. Please be very careful to plan your payroll information input around this holiday.**

**2007 Holiday Schedule:** The following remaining holidays are scheduled for 2007. The official “bank holidays” are marked with an “\*”

- ▶ \* Monday, May 28, 2007 – Memorial Day – Pay-Net will be closed
- ▶ \* Wednesday, July 4, 2007 – Independence Day – Pay-Net will be closed
- ▶ \* Monday, September 3, 2007 – Labor Day – Pay-Net will be closed
- ▶ \* Monday, October 8, 2007 – Columbus Day
- ▶ \* Monday, September 3, 2007 – Labor Day – Pay-Net will be closed
- ▶ \* Monday, November 12, 2007 – Veteran’s Day
- ▶ \* Thursday, November 22, 2007 – Thanksgiving Day – Pay-Net will be closed
- ▶ Friday, November 23, 2007 – Day after Thanksgiving – Pay-Net will be closed
- ▶ Monday, December 24, 2007 – Day before Christmas – Pay-Net will be closed
- ▶ \* Tuesday, December 25, 2007 – Christmas Day – Pay-Net will be closed
- ▶ Monday, December 31, 2007 – Day before New Year’s Day – Pay-Net will be closed
- ▶ \* Tuesday, January 1, 2008 – New Year’s Day – Pay-Net will be closed

**New California Requirements:** A new California law, AB2095, provides that an employer is considered to have complied with the itemized wage statements requirement if overtime hours worked in the current pay period are itemized as corrections on the pay stub for the next regular pay period. Corrections included in a subsequently issued pay stub must identify the dates of the pay period to which they refer.

In other words, any pay corrections that apply to a previous pay period (for example “retro pay”) must be noted on the check stub, and the dates of the pay period that applies must be noted!

How can you comply with this new law? Go to our web site at [www.pay-net.net](http://www.pay-net.net) . Go to the "Employer Resources" section and then the "Downloads" section. Scroll down and find the training document on "Check Stub Memos". This document covers how you can use the system if you wish, either our Remote system or Payentry.

**IRS Form 944:** Last year, the IRS introduced a new form for very small companies. This form, the 944, replaces the normal quarterly form 941. In 2006, the IRS was very liberal in its enforcement of this new form. The Form 944 is filed annually where the 941 is filed quarterly.

However, in 2007, any company that has received notice from the IRS that they are subject to the new Form 944, must use this form instead of the normal Form 941. If a company does not use the 944, they may be subject to penalties.

**Pay-Net does not receive any notification from the IRS if a company must file on a Form 944, and we must rely on our clients to provide us with this information.** If your company received a letter from the IRS notifying you of your 944 filing requirement in 2006 or 2007, please send this notice to us immediately. Pay-Net cannot be held responsible for penalties issued to any company that has not notified us of this filing requirement.

**Pension Reform Bill Allows Automatic 401(k) Enrollment:** The Pension Protection Act, signed into law by President Bush Aug. 17, gives employers more flexibility in developing and administering their Section 401(k) plans. Among other things, the bill:

- allows employers to automatically enroll employees into 401(k) plans unless the employee opts not to be enrolled,
- allows employers to automatically increase the amount of money they deduct from employees' paychecks for contributions into their Section 401(k) plans over time,
- encourages plan sponsors to offer annuities as a direct distribution option by allowing Section 401(k) plan assets to be paid out more like the lifelong income of a traditional defined benefit pension plan,
- makes permanent higher catchup contribution limits for workers who need to add to their savings as they near retirement,
- allows employees who participate in Sections 401(k) and 403(b) plans to rebalance their portfolios by changing the particulars of their plans, and
- gives employees easy access to advisers who can help them make better savings decisions through the use of computer models that are certified as "bias-free" by an independent third party.

**California Workers Claim Losses, Penalties for Paychecks Drawn on Out-Of-State Bank:**

A state law intended to guarantee employees prompt payment of wages requires Dollar Tree Stores Inc. to give its California employees paychecks drawn on an in-state bank, or to make arrangements for employees to cash checks without incurring delays or costs, a federal court in San Francisco ruled Sept. 15 (*Fleming v. Dollar Tree Stores Inc.*, N. D. Cal., No. C06-03409 MJJ, 9/15/06).

Refusing to dismiss a lawsuit seeking damages and penalties on behalf of employees who received checks drawn on Wachovia Bank, Judge Martin J. Jenkins of the U.S. District Court for the Northern District of California found that an exemption in the California Labor Code for some checks where "the drawee is a bank" only applied to employers that are themselves banks.

California Labor Code Section 212(a)(1) prohibits payment of wages by check unless the check is "negotiable and payable in cash, on demand, without discount, at some established place of business in the state, the name and address of which must appear on the instrument." According

to papers filed in the lawsuit, Dollar Tree paid California employees with checks drawn on Wachovia Bank N.A., a national bank with branches and facilities in a number of Eastern and Southern states, but not in California.

**Property Agents Qualify For Overtime Exemption:** Acquisition agents, relocation agents, and property management agents who exercise independent judgment and perform work related to general business operations should qualify for the administrative employee exemption to overtime under the Fair Labor Standards Act, the Labor Department's Wage and Hour Division said in an opinion letter (Wage and Hour Opinion Letter, FLSA2006-23, 6/29/06).

Section 13(a)(1) of the FLSA provides an exemption from the minimum wage and overtime pay requirement for administrative employees. According to DOL regulations, to be an exempt administrative employee, the employee must be paid a salary of at least \$455 per week and the employee's "primary duty" must be the "performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers." Also, the primary duty must include the "exercise of discretion and independent judgment with respect to matters of significance".

DOL has developed criteria to consider when assessing whether an employee exercises discretion and judgment as to significant matters. These criteria include whether the employee has the authority to formulate or implement management policies, perform work that affects business operations, commit the employer in matters with a significant financial impact, deviate from established policies, and represent the company in handling complaints.

In the question submitted, DOL was asked to determine whether three types of land-acquisition employees—acquisition, relocation, and property management agents—qualify as administrative employees for purposes of the exemption.

Acquisition agents should be classified as exempt administrative employees, DOL stated, because they show independent judgment by interpreting management policies, negotiating, and binding the client financially.

Similarly, relocation agents qualify for the administrative exemption because they work in the areas of procurement, government relations, and regulatory compliance, which are management and general business operations functions, DOL decided, requiring the use of independent judgment in analyzing housing alternatives, recommending housing payments, and advising clients on financial matters.

DOL also found that property management agents qualify for the administrative exemption, because their primary duty of serving as a liaison between the client and various government agencies qualifies as management and general business operations, since it involves legal and regulatory compliance. In addition, property management agents implement management policies and negotiate on behalf of the company, which fulfills the exercise of discretion requirement.



## *A Note from Wayne*

This has been a slow quarter for payroll tax law changes, thank goodness. However, the economy seems to be in a complete upheaval this year. It appears that many sectors of the economy are doing fine, while others, such as construction, are not. This economic uncertainty makes it difficult for a business to plan ahead. Pay-Net continues to grow despite these times and we now have about 800 clients. I would like to welcome all of our new clients and thank all of our "old" clients for continuing to entrust Pay-Net with your company's payroll needs.

*Wayne*