



Welcome to our Forty-Sixth Edition of Pay-Net's E-Newsletter. Previous editions of our E-Newsletter are available on our web site, 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 6 to 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 .

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) . By doing this, our list will remain current. When we sent out the last E-Newsletter, we got over 50 bounce-backs because the email address was no longer valid.

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.

- | | |
|---------------------------|---|
| Wayne Lee (Owner): | wayne@pay-net.net |
| Hollis (General Manager): | hlee@pay-net.net |
| Gloria (Operations Mgr): | gbal@pay-net.net |
| Becky (Operations) | rbaker@pay-net.net |
| Peggy (Operations) | pgreenwell@pay-net.net |
| Anna (Tax Manager): | atudor@pay-net.net |
| Ivan (Technical): | idiaz@pay-net.net |
| General Communication: | operations@pay-net.net (this will be forwarded to the appropriate person) |
| Debbie (Sales): | dwillett@pay-net.net |
| Don (Sales): | denck@pay-net.net |

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 and let us know what you think about it. Send your responses to operations@pay-net.net.

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

- ▶ August 31st 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 before 3:00 pm on Thursday, August 27th.
- ▶ September 1st falls on a Tuesday. If you normally date your checks for the 1st and you have direct deposit, we will need your payroll information before 3:00 pm on Friday, August 28th.

▶ September 5th falls on a Saturday. If you normally date your checks for the 5th, your check date will roll back to Friday, the 4th. If this affects your company and you have direct deposit, we will need your payroll information by 3:00 pm on Wednesday, September 2nd.

▶ **Monday, September 7, 2009, is Labor Day, a national banking holiday and Pay-Net will be closed on this day. Please take this into account as you prepare your payroll information.**

▶ September 15th is on a Tuesday. If you normally date your checks for the 15th and you have direct deposit, we will need your payroll information before 3:00 pm on Friday, September 11th.

▶ September 20th is on a Sunday. If you normally date your checks for the 20th, your check date will roll back to Friday, the 18th. If this affects your company and you have direct deposit, we will need your payroll information by 3:00 pm on Wednesday, September 16th.

▶ October 5th is on a Monday. If you normally date your checks for the 5th and you have direct deposit, we will need your payroll information before 3:00 pm on Thursday, October 1st.

▶ **Monday, October 12th is Veteran's Day holiday, a national banking holiday. Pay-Net will be open on that day. Please take this into account as you prepare your payroll information.**

▶ October 20th falls on a Tuesday. If you normally date your checks for the 20th and you have direct deposit, we will need your payroll information before 3:00 pm on Friday, October 16th.

▶ October 31st, and November 1st, fall on a weekend. If you normally date your checks for the end of the month, or the first of the month, your check date will roll back to Friday, October 30th. If your company is affected and you have direct deposit, we will need your payroll information before 3:00 pm on Wednesday, October 28th.

2009 Holiday Schedule: The following remaining holidays are scheduled for 2009. The official "bank holidays" are marked with an "*":

- ▶ * Monday, September 7, 2009 – Labor Day – Pay-Net will be closed
- ▶ * Monday, October 12, 2009 – Columbus Day – Pay-Net will be open
- ▶ * Wednesday, November 11, 2009 – Veteran's Day – Pay-Net will be open
- ▶ * Thursday, November 26, 2009 – Thanksgiving Day – Pay-Net will be closed
- ▶ Friday, November 27, 2009 – Day After Thanksgiving – Pay-Net will be closed
- ▶ * Friday, December 25, 2009 – Christmas Day – Pay-Net will be closed
- ▶ * Friday, January 1, 2010 – New Year's Day – Pay-Net will be closed

Important Information on Child Support Payments: As you may be aware, the state of California has required electronic deposits (EFT or Electronic Funds Transfer) of Child Support garnishments for many years. But, on the other hand, up until recently, the state failed to provide the method for making these payments by EFT. Thus, this rule was basically ignored.

However, last October, the state of California started working on providing a system for these EFT payments. And, now, they have their system up and operational. Some of our

clients have received notification from the state that they are required to make Child Support and Spousal Support payments by EFT.

And, Pay-Net is ready to do your Child Support Payments on your behalf.

Per California regulations: “...the mandatory EFT filers for child support are those companies that are also required by the state to do payroll tax deposits by EFT...”. What this means is that any company that has a total state payroll tax liability greater than \$20,000 per year is required to do tax deposits by EFT and now is required to pay child support payments by EFT.

We strongly recommend that you determine if your company falls under these guidelines. If you do, then contact our office for instructions on how to proceed. You may not have received notification from the state regarding the requirement for using EFT for tax deposits because Pay-Net already makes your tax deposits by EFT.

Also, please note that even if you are required to make your employee’s child support payments by EFT, you may find this method easier than using a check for payment, and you can use this method.

If you would like information on how to enroll in this new service, please contact our office.

Minimum Wage: Effective July 1, 2009, three states increased their minimum wage:

- ▶ Illinois, \$8.00 per hour, from \$7.75
- ▶ Kentucky, \$7.25 per hour, from \$6.55
- ▶ Nevada, \$6.55 per hour for employees with qualifying health benefits, from \$5.85. For all other employees, \$7.55 per hour, from \$6.85.

In addition, on July 24, 2009, the Federal Minimum Wage goes to \$7.25 per hour, up from \$6.55. There are 15 other states that follow the Federal Minimum Wage that will also increase their rates on that date.

More on the Minimum Wage: The Living American Wage Act bill (H.R. 3041) would amend the Fair Labor Standards Act to provide for the calculation of the minimum wage based on the federal poverty threshold for a family of two with one child. The bill would index the minimum wage to 15 percent above the poverty line for a full-time worker, or about \$8.20 per hour in wages, and would increase the minimum wage every four years to maintain a wage at least 15 percent above the poverty threshold.

Currently, a full-time worker earning the minimum wage of \$6.55 an hour earns \$13,624 a year, which is an income "substantially below" the 2008 poverty threshold of \$14,840 for a worker with one child, Green said. The minimum wage will increase to \$7.25 on July 24, which would mean a full-time worker would earn \$15,080 a year, "barely surpassing the poverty threshold," he said.

The Latest News in the “Problems with W2 Mismatch Errors”: As most of our clients know, Pay-Net has been following the issue of Social Security Number mismatches when comparing W2 information to the Social Security database. Here is the latest announcement:

The Department of Home Security recently announced plans to rescind a 2007 rule that required employers to take steps to reconcile name and Social Security Number mismatches reported on Forms W-2 or face immigration law penalties. The rule, challenged in court by a coalition of labor

unions and business groups, has been stayed for nearly two years under a federal court injunction and never was implemented.

A process developed by the Social Security Administration to help reduce the number of discrepant wage records included "no-match" letters sent annually to certain employers that detailed specific prior year Forms W-2 that could not be posted because of to a name or number mismatch. The DHS rule attempted to equate the receipt of a no-match letter as potential knowledge that there is employment of unauthorized workers.

Recognizing the distinction between the original intent of the administration with the letters, DHS said these "notices most often inform an employer many months or even a year later that an employee's name and Social Security Number provided for a W-2 earnings report do not match SSA records—often due to typographical errors or unreported name changes." Instead of using the letters as a vehicle for ferreting out undocumented workers, DHS instead said it will strengthen its E-Verify program, and that it will implement a recent rule requiring federal contractors to use E-Verify for employees.

Several groups, while applauding the decision to scrap the no-match rule, were disappointed about expanding E-Verify, which they say is flawed.

And, for your information, Pay-Net is setup to perform the E-Verify service for your company if you so desire.

And Now, Some More Developments From Washington: A Department of Homeland Security plan to rescind a rule requiring employers to reconcile Social Security numbers that do not match those on Forms W-2 was met with opposition in the Senate, which has attempted to block the decision. The rule, which also has been challenged in court by a coalition of labor unions and business groups, has been stayed for nearly two years under a federal court injunction and was never implemented. A process developed by the Social Security Administration to help reduce the number of wage records included "no-match" letters sent annually to certain employers that detailed specific prior year Forms W-2 that could not be posted because of a name or number mismatch.

Employers not taking steps to reconcile mismatched numbers would face immigration law penalties. The Senate, meanwhile, approved by unanimous consent an amendment to the \$42.9 billion fiscal year 2010 homeland security appropriations bill that would effectively block DHS from rescinding the "no-match" rule, which was first proposed by the Bush administration in 2007. The Senate acted without debate on the amendment that would prohibit the use of funds in the bill to rescind the program. The Senate's move came July 10, a day after Homeland Security Secretary Janet Napolitano's announcement that DHS intends to drop the rule. The House version of the DHS appropriations bill, approved in late June, does not contain a similar provision.

The Senate DHS appropriations bill also includes provisions that would make the E-Verify program permanent and allow employers to use E-Verify to screen all employees for work eligibility, not just new hires. E-Verify is the federal government's electronic employment verification program, used by about 134,000 employers nationwide, DHS said. The Bush administration's regulation requiring its use by federal contractors has been postponed four times since it was published, most recently on June 2.

Under the no-match rule, also called the safe harbor rule, the Social Security Administration would be required to include in no-match letters, sent to employers when employees' Social Security numbers do not match government records, information telling employers that they are required to resolve discrepancies or face liability.

Responding to the announcement, immigrant rights groups and the Service Employees International Union said that DHS is sending mixed messages on the issue of enforcement. The groups applauded the decision to rescind the no-match regulation, but were disappointed with any E-Verify expansion, a program they say is flawed.

In a July 8 statement, DHS said that the no-match letters sent to employers "most often inform an employer many months or even a year later that an employee's name and Social

Security number provided [in] a W-2 earnings report do not match SSA records, often due to typographical errors or unreported name changes.”

The E-Verify program, DHS said, “addresses data inaccuracies that can result in no-match letters in a more timely manner and provides a more robust tool for identifying unauthorized individuals and combating illegal employment,” the department said.

The no-match rule has been in legal limbo since late 2007, after a coalition of labor unions, business groups, and immigrant rights groups, including the U.S. Chamber of Commerce, the AFL-CIO, the American Civil Liberties Union, and the National Immigration Law Center, challenged the final rule in court. Judge Charles Breyer of the U.S. District Court for the Northern District of California blocked the government from sending the DHS portion of the no-match letters to employers. The Social Security Administration suspended sending out no-match letters until the lawsuit is resolved.

“Forced” IRA Plans for Employees?: Washington is now considering forcing employees to participate in an IRA program. Here is the article:

With its goal to increase retirement savings, an Obama administration proposal relies on payroll savings and automatic enrollment in individual retirement accounts, a senior Treasury Department official said.

The administration's draft proposal for direct-deposit payroll IRAs would involve employers only as a pass-through for collecting employee contributions from a company's payroll account and transferring the funds to an employee's IRA, said J. Mark Iwry, deputy assistant secretary for retirement and health policy at Treasury. The program, which is part of the administration's 2010 budget proposal, was endorsed by Obama during last year's presidential campaign.

“The employer would be the conduit for sending an employee's money to an employee's own IRA,” Iwry said, adding that the federal government, not the employer, would provide matching contributions up to a certain amount.

The direct deposit payroll IRA would have a few investment options and possibly a type of Treasury bond as the IRA's default option, said Iwry, who spoke last month at a meeting of the Profit Sharing/401k Council of America in Chicago.

Payroll IRAs will not compete with, or undermine, employer-provided Section 401(k) or savings incentive match plans for employees at small businesses, Iwry said. A mandatory direct-deposit IRA would apply only to businesses that employ more than 10 people and that maintain electronic payroll systems. The federal government would serve in an incubator role initially and then step back after the savings strategy took hold to let the marketplace take over, he said.

The proposal “is very much designed to protect the employer system and enhance it,” Iwry said. The proposal, under development by the Retirement Security Project, would boost incentives for moderate- and lower-income workers to save for retirement through IRAs or 401(k) plans, especially those not covered by an employee-sponsored retirement plan, estimated at 75 million workers, or half the U.S. workforce. The Washington-based project is a joint effort of the Brookings Institution and the Heritage Foundation.

“Employers who do not currently offer a retirement plan will be required to enroll their employees in a direct-deposit IRA account that is compatible with existing direct-deposit payroll systems,” the budget proposal said.

“The result will be that workers will be automatically enrolled in some form of savings vehicle when they go to work, making it easy for them to save while also allowing them to opt out if their family or individual circumstances make it particularly difficult or unwise to save,” the proposal said. “Experts estimate that this program will dramatically increase the savings participation rate for low and middle-income workers to around 80 percent.”

Proposed Changes to the Family Medical Leave Act (FMLA): Legislation (H.R. 3047) was introduced in the House that would amend and expand the Family and Medical Leave Act to provide for paid sick leave, additional leave for family issues, and parental involvement leave. The measure, the Balancing Act of 2009, was introduced June 25 by Rep. Lynn Woolsey (D-Calif.). The legislation wraps together several recently introduced FMLA-related bills and would provide 12 weeks of paid leave for family issues and up to seven days of paid sick leave. The sweeping legislation also would provide for grants for part-time workers benefits, benefits for same-sex spouses of federal employees, leave for domestic violence, and telework options. The bill addresses school lunches and breakfasts, funding for child care facilities, child care assistance, in-school and after school assistance, and family care assistance.

Enforcement of Worker Classification – Independent Contractors: The IRS may begin cracking down on companies that misclassify employees as Independent Contractors if a proposed law is passed. Here is the article:

The Taxpayer Responsibility, Accountability and Consistency Act of 2009 (H.R. 3408), introduced July 30 by Rep. Jim McDermott (D-Wash.), would replace Section 530 of the Revenue Act of 1978 with a new Internal Revenue Code section that requires the Internal Revenue Service to propose new worker status rules, narrows “reasonable basis” justification for prior misclassification of workers as independent contractors, and substantially increases penalties for compliance failures.

McDermott introduced a similar bill with the same name in the last session of Congress. The new bill is the first of several legislative proposals addressing worker misclassification expected to be introduced this term, sources told BNA.

Determining Worker Status

Section 530 currently prohibits IRS from issuing any regulations or rulings on independent contractor issues and contains a relief provision that excuses employers from employment tax liability, regardless of a worker status determination under the common law test. The relief provision applies if an employer has a “reasonable basis” for treating a worker as an independent contractor, and if the employer meets “substantive consistency” and “reporting consistency” requirements.

The “reasonable basis” part of the Section 530 relief, known as a safe harbor, can rely on a court ruling or other judicial precedent; published IRS rulings; IRS technical advice or a letter ruling directed to the employer; a previous IRS audit that did not turn up misclassification issues; a long-standing, recognized practice of a significant segment of the industry in which the individual worked; or even advice of a business lawyer or accountant who knew the facts of the situation.

McDermott’s bill would narrow the definition of “reasonable basis” to reliance on a written determination issued to the employer. The determination would address the employment status of the workers or a concluded employment tax examination that determined no employment relationship, along with consistent treatment since Jan. 1, 1977, of all workers in similar positions.

\$3 Million Penalty

Under the proposed legislation, which would amend Chapter 25 of the IRC, employers misclassifying employees as independent contractors would face higher fines, including a \$3 million penalty for “intentional disregard.” Other penalties include:

- Fines of \$1 million for employers with receipts of up to \$5 million. The current penalty is \$100,000.
- Fines of up to \$1.5 million for failing to correct a tax return on or before Aug. 1. The current penalty is \$150,000.
- Fines of up to \$500 per tax return for employers that intentionally disregard filing rules. The current penalty is \$100.
- A minimum penalty of \$250 for each incorrect tax return. The current penalty is \$50.

Under the bill, the Treasury secretary is to issue an annual report on worker misclassification. The report is to include the number and type of enforcement actions taken, employer examinations, fines and penalties, the number of employers that misclassified workers, and the estimated number of workers who were misclassified.

H.R. 3408 also would require information reporting of payments to companies.

Assault on FSA's and HSA's: As many of our clients are aware, there are some definite benefits to using Flexible Spending Accounts (FSA's) and Health Savings Accounts (HSA's) when offering fringe benefits to employees. However, these plans are coming under attack.

An \$8 billion revenue-raising provision in the House Democrats' health care bill (HR 3200) would limit the use of pre-tax HSA's and pre-tax FSA's. This has given rise to a lobbying campaign to preserve these benefits, or, at least, to minimize the impact of the proposed changes.

The provision approved by the Ways and Means Committee would exclude over-the-counter medicines from eligibility for reimbursement.

Meanwhile, the Senate Finance Committee issued an "options paper" of potential offsets to the \$1 trillion overhaul of the health care industry. In the paper, the Senate included eliminating or limiting the amount of salary reduction contributions to HSA's and FSA's.

The director of the Employers Council on Flexible Compensation estimates that at least 35 million participants would be affected by the proposed changes.

New I-9 Form: On December 18, 2008, the U.S. Citizenship and Immigration Services (USCIS) published new rules to streamline the *Employment Eligibility Verification Form I-9*. The effective starting date was February 2, 2009. By that date, all employers were supposed to use the I-9 form for each new hire to verify the employee's right to work in the United States.

But, on January 30, 2009, the USCIS did an abrupt twist and extended the effective date for using the new I-9 until April 3, 2009. **Reason:** The USCIS and the new Obama administration wanted time to consider additional changes.

The new form (for use April 3rd and after) and the current form (in use since 2007) look almost identical. So, the next question: How can you know which I-9 form is which? Here's where to find the nearly hidden identification:

- **April 3, 2009, and after.** Use the form that has "Form I-9 (Rev. 02/02/09)" located in small type in the bottom right corner of the form. The new form reflects the new rules, which no longer allow an employer to accept expired U.S. passports and expired drivers' licenses to verify employment authorization.

You can find the I-9 Form on our web site under Employer Resources > Employer Forms.

Potential Problems with New Federal Income Tax Withholding: As you are aware, the income tax withholding tables were changed in March to reflect the new rules under the Stimulus Bill. However, now the IRS has released this announcement:

Employees with multiple jobs or married couples whose combined incomes place them in a higher tax bracket may experience a shortage of federal withholding and they can submit a revised W-4 that tells the employer how much money to withhold each paycheck. To recalculate withholding, filers should use Worksheet 12 in the updated Publication 919.

Publication 919 can be found on the IRS web site, or it can be downloaded from Pay-Net's web site at: <http://www.pay-net.net/docs/p919.pdf> (clickable link).

Arizona Withholding Rates: We have received several inquiries from clients regarding the rate changes for Arizona Withholding. For many years, the State of Arizona has based employee income tax withholdings as a percentage of Federal Withholding. On May 1, 2009, Arizona changed their rates. And, in fact, the state changed the future rates. The following chart shows the former, current and future rates:

Arizona Withholding Rates

| Up to April 30, 2009 | May 1, 2009 to December 31, 2009 | Jan 1, 2010 to June 30, 2010 |
|---|-------------------------------------|---------------------------------|
| 10.0% | 11.5% | 10.7% |
| 19.0% | 21.9% | 20.3% |
| 23.0% | 26.5% | 24.5% |
| 25.0% | 28.8% | 26.7% |
| 31.0% | 35.7% | 33.1% |
| 37.0% | 42.6% | 39.5% |
| Minimum Percentage for Employees Earning Over \$15,000 Per Year | | |
| 19.0% | 21.9% | 20.3% |

By using an AZ-4 Form (similar to the Federal W-4 Form), an employee would indicate to their employer the percentage rate to use for their withholding.

Note: Effective July 1, 2010, the *State of Arizona will stop using the percentage method* and they will adopt a "table system" similar to the table system used by California. As of this date, the state has not released any information on this new calculation method.

Pay-Net's ConfirmFTD Service: We want to remind our clients of our ConfirmFTD service, which allows our Electronic Tax Filing clients to check their Federal tax deposits on the EFTPS Department's web site (a division of the IRS).

To describe the service in a nutshell: For a very minimal one-time fee, Pay-Net will enroll you with the EFTPS unit of the IRS. You will receive a PIN directly from the EFTPS, which will allow you to register and login directly to the EFTPS web site. There, on their web site, you can confirm the date and amount of all Federal 941 and 940 deposits made on your behalf by Pay-Net for the last 16 months.

Exciting New Software Features Are Here: Did you know that our software could now handle complete Human Resource requirements including Applicant Tracking? Did you know by summer, we will have an "Employee Kiosk" feature with complete Employee Self Service? These are exciting times for us as our software evolves into a complete Payroll and Human Resource package that can handle the complex requirements of both functions.

To read more about our some of the new features in the software, click on the following link and you will be taken to a document on our web site:

<http://www.pay-net.net/docs/newsoftware.pdf>

And yes, if you are reading this ENewsletter on your computer, all of these links and email addresses are “clickable”.

If you would like to have these new features in your company, you will need to become a full remote client of Pay-Net. Call our office for details.

Additional Services Offered by Pay-Net: Sometimes clients can forget the vast range of services that Pay-Net can offer your company. For example, did you know that we offer four different types of tax services? Or, did you know you could import your payroll information from an Excel® spreadsheet? Since businesses are constantly changing, your payroll and human resource requirements can also change. We encourage you to examine the vast number of services that we offer, from Human Resource tracking to Employee Self Service. To find out about our expanse of services visit our web site, www.pay-net.net, and click on “Pay-Net Solutions”.



Note from Wayne

Wow, what a summer of 2009 we are having! Usually, the summertime brings few payroll or payroll tax changes. Lawmakers are on vacation and the government barely moves at all. But this summer is completely different. There are so many law changes, proposed law changes, and pending laws that it is almost impossible to keep up with it all. The whole health care issue has made headlines all over the country with citizens confused and angry about the whole process. As always, Pay-Net

is trying to keep our clients informed about what's going on. In this issue, we have touched on several issues that will affect our clients. And, we will continue to keep you informed on important issues that can affect your company.

A handwritten signature in black ink, appearing to read "Wayne". The signature is stylized and cursive.