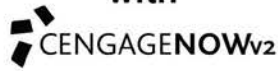


Payroll Accounting
with



2021
EDITION

BIEG
.....
TOLAND

Payroll Accounting



2021
EDITION

Payroll Accounting



Bernard J. Bieg

Bucks County Community College

Judith A. Toland

Bucks County Community College



Australia • Brazil • Mexico • Singapore • United Kingdom • United States

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Chapter 2

GIG Workers

An appeals court in California has granted a stay to Uber Technology, Inc. and Lyft, Inc. to a lower court ruling that required the companies to reclassify their drivers as employees. The court stated that since the drivers were controlled by the companies and contributed to the companies’ usual course of business, they are employees. Oral arguments were set for October 2020.

Chapter 3

FICA-OASDI Taxable Wage Base

In this edition of the textbook, we have used the 2020 wage base of \$137,700, and current projections have projected the 2021 wage base to be \$141,900. Actual annual increases to the FICA-OASDI taxable wage base are announced in October of the preceding year based on current economic conditions.

Chapter 4

Executive Memorandum to Defer Employee Share of Social Security Taxes Due to COVID-19

On August 8, 2020, President Trump signed a memorandum directing the Secretary of the Treasury to defer the withholding, deposit, and payment of the employee share of social security tax on wages paid between September 1 and December 31, 2020. This deferral is available to employees who are paid wages for a biweekly pay period that are generally less than \$4,000, calculated on a pretax basis, or the equivalent amount with respect to other pay periods.*

*<https://www.whitehouse.gov/presidential-actions/memorandum-deferring-payroll-tax-obligations-light-ongoing-covid-19-disaster/>

Chapter 5

Work Sharing

More than half the states have an unemployment insurance program that subsidizes the wages of workers who are kept on payroll with reduced hours instead of being furloughed. Although rules vary by state, in order to be covered, companies must apply individually and file a plan for each category of workers. During the pandemic, Congress, as part of the CARES Act, picked up the cost of this program through the end of 2020.

Federal Supplement

An extra supplement to unemployment benefits of \$300 a week was put in place in August 2020 to replace the \$600-a-week emergency federal supplement that expired in July 2020. In order to qualify, the recipients must be receiving a least \$100 in unemployment benefits each week. The Federal Emergency Management Agency funded the increase and the supplement was expected to last five weeks.

Chapter 7

Philadelphia Wage Tax

Effective July 1, 2020, until June 30, 2021, the Philadelphia Wage Tax is 3.8712 percent (resident) and 3.5019 percent (nonresident).



PREFACE

PAYROLL ACCOUNTING AND TODAY'S BUSINESS ENVIRONMENT

Today's payroll accountant is a major player on a company's management team. Management's need for timely and accurate payroll cost data as a part of the total planning step has moved payroll from a disbursement and recording function to an integral part of the management process.

With constant changes in the legal environment, technology advancements in the administration of payroll functions, and with tax withholding responsibilities, the payroll accounting occupation has become proactive. During this time when the need for accurate information is so critical, *Payroll Accounting* has established a record of being the most thorough book on the market for over 20 years. Each edition has been updated with the most current data available.

The 2021 edition of *Payroll Accounting* continues to provide the most user-friendly payroll accounting coverage, in addition to significant resources that will aid instructors and students alike in their mastery of payroll accounting.

CengageNOWv2

Payroll Accounting 2021 is fully integrated with CengageNOWv2, a powerful course management and online homework tool that provides robust instructor control and customization to optimize the student learning experience and meet desired outcomes.

CengageNOWv2 Includes

- NEW! Automated General Ledger Software
- Integrated eBook
- End-of-chapter homework with static and algorithmic versions
- Continuing Payroll Problems (CPP)
- Adaptive Study Plan and multimedia study tools
- Test bank
- Excel Online
- Course management tools and flexible assignment options
- Gradebook Analytics
- Mastery Problems
- Tell Me More Lecture Activities with assignable questions
- Robust feedback, which now includes feedback for Forms 940 and 941
- Audit Tests in CengageNOWv2
- Show Me How Demonstrative Videos

Tell Me More Lecture Activities

Tell Me More Lecture Activities are available and correlate to each Learning Objective (LO). These Lecture Assignments review the material covered in each LO, giving students a way to review what is covered in each objective in a digestible video activity format so they come to class more prepared and ready to participate.



"To students, it's quick feedback, and they can improve the grades by working on the questions multiple times; to instructors, it's less grading time, and easy to evaluate students' performance."

-Jack Wu,
Chemeketa Community College



Audit Tests for Payroll Project

The Student Audit Tests are designed to help students as they work through the Payroll Project in Chapter 7, Appendix A, and new online Appendix D. These tests can be assigned specifically to the Payroll Dates inside CengageNOWv2, and students can answer them to ensure they are fully understanding the concept and process of the payroll project.

Show Me How Problem Demonstrative Videos

Show Me How Videos are available for all continuing payroll problems at the end of each chapter and the most commonly assigned end-of-chapter assignments in both the A Set and B Set. These Videos provide students with both a detailed walk-through of a similar problem and problem-solving strategies.



Going Further in Payroll Accounting

- **UPDATED:** Detailed Check My Work and Post-Submission feedback with explanations and tips for completing the problem

Feedback

▼ Check My Work

Identify which accounts are affected in each transaction. Keep in mind that every transaction involves at least two accounts. Determine whether the account increases or decreases and record each increase or decrease following the rules of debit and credit. Use the Posting Reference column to enter the corresponding account number from the general ledger account. Remember total debits should equal total credits in your entries.

[Learning Objective 1](#)
[Learning Objective 2](#)
[Learning Objective 3](#)

▼ Post-Submission

a. Hours worked each day:

Monday	8 hours
Tuesday	7.9 hours
Wednesday	7.6 hours
Thursday	7.6 hours
Friday	7.8 hours
b. Total hours worked	38.9 hours

c. Gross earnings for the week = $38.9 \times \$12.15 = \472.64

▼ Solution

Note: In this chapter and in all succeeding work throughout the course, **unless instructed otherwise**, calculate hourly rates and overtime rates as follows:

1. Carry the hourly rate and the overtime rate to 3 decimal places and then round off to 2 decimal places (round the hourly rate to 2 decimal places before multiplying by one and one-half to determine the over-time rate).
2. If the third decimal place is 5 or more, round to the next higher cent.
3. If the third decimal place is less than 5, simply drop the third decimal place.

Examples: Monthly rate \$1,827
Weekly rate $(\$1,827 \times 12)/52 = \421.615 rounded to \$421.62
Hourly rate $\$421.62/40 = \10.540 rounded to \$10.54
O.T. rate $\$10.54 \times 1.5 = \15.81

Also, use the minimum hourly wage of \$7.25 in solving these problems and all that follow.

- **Mastery Problems** within CengageNOWv2 are designed to help students understand difficult topics in payroll accounting by breaking down the topic into smaller parts. Each part builds on other parts through a systematic problem-solving process. These problems address key chapter learning objectives and are algorithmic for versatile assignment options.
- CengageNOWv2 contains numerous algorithmic problems that allow instructors to have more flexibility and assurance that students are completing the projects on their own.



Compute Taxable Earnings, Gross FUTA tax and Net FUTA Tax.

Learning Objective 3: Compute the federal unemployment tax, the credit against the tax, and any credit reductions that might apply.

In this step, you will walk through the process to compute net FUTA tax due. Below is a list of employees for Doan Insurance Services, with the amount of qualifying earnings they have for the year.

Employee Name	Calendar earnings	Year-to-Date Taxable Earnings
Pete Deering	\$2321.00	\$
Manuel Estrada	\$1102.50	\$
Don Estridge	\$705.00	\$
Darrel Lee	\$2364.25	\$

Next, total the taxable earnings from above and apply the current FUTA tax rate to determine the gross FUTA tax due. Round the FUTA tax to the nearest cent.

Total taxable earnings	\$
× Rate of FUTA tax	%
Amount of Gross FUTA tax	\$

Finally, compute the SUTA credit and subtract it from the gross FUTA calculated in the prior step. Assume that state taxable wages are the same as federal taxable wages, and that Doan Insurance Services is eligible for the credit.

Total state taxable earnings	\$
× Rate of SUTA tax credit	%
SUTA tax credit	\$
Amount of net FUTA tax due	\$

- Randomized Test Bank answers within CengageNOWv2 allow instructors to assign the same multiple-choice test problems, but CengageNOWv2 will randomize the selection choices. The selection order for each student changes, combating student cheating. See the following example.

The entry to deposit FICA taxes and federal income taxes withheld involves all of the following accounts *except*:

- Payroll Taxes.**
- FICA Taxes Payable—OASDI.
- Cash.
- FICA Taxes Payable—HI.
- Employees FIT.

The entry to deposit FICA taxes and federal income taxes withheld involves all of the following accounts *except*:

- Cash.
- Employees FIT.
- Payroll Taxes.**
- FICA Taxes Payable—HI.
- FICA Taxes Payable—OASDI.



KEY FEATURES

- Motivation, Application, Mastery**—*Payroll Accounting 2021* and CengageNOWv2 help you elevate student thinking with unique content that addresses each stage of the learning process, prepares students to learn, provides practice opportunities that better prepare students for the exam, and helps students achieve mastery with tools that help them make connections and see the big picture.
- The Washington Update**—The Washington Update, which appears within Chapters 1, 2, 3, 4, 5, and 7, advises the student of the tax code and tax laws that were used in the current edition. However, because tax code, tables, and laws may be changed by Congress after the text has been printed, the student is advised on how, in practice, they can find the most current tax code, tables, and laws.
 - Enhanced Excel Templates**—The Excel Templates include a feedback section giving instructors the option for adding a comment/grade and an area for students to show their work.
- Excel Online**—Cengage and Microsoft have partnered in CengageNOWv2 to provide students with a uniform, authentic Excel experience. It provides

WASHINGTON UPDATE

A NUMBER OF STATES ARE EVALUATING CHANGES TO THEIR OVERTIME RULES THAT WILL EXCEED THE FEDERAL SALARY REQUIREMENTS. CALIFORNIA HAS SET ITS SALARY LEVEL FOR WORKERS AT LARGE EMPLOYERS TO \$49,920 (SET TO CHANGE TO \$62,400 IN 2023).²

instant feedback, built-in video tips, and easily accessible spreadsheet work. These features allow you to spend more time teaching college accounting applications, and less time troubleshooting Excel.

These new algorithmic activities offer pre-populated data directly in Microsoft Excel Online. Each student receives his or her own version of the problem to perform the necessary data calculations in Excel Online. Their work is constantly saved in Cengage cloud storage as a part of homework assignments in CengageNOWv2. It's easily retrievable so students can review their answers without cumbersome file management and numerous downloads/uploads.

- **Superior Examples**—Examples are identified and numbered within the text. Various end-of-chapter problems are identified as a problem similar to an example within the text. See the examples below.

EXAMPLE 3-7

Ned Fromton, an employer, files his employment tax return 20 days after the due date of the return. The amount of tax that was unpaid is \$6,000. Fromton's penalty is:

Failure to file ($5\% \times \$6,000$) = \$300 *Note: Any fraction of a month counts as a whole month.*

3-16A • LO 5



See Example 3-6 on page 3-20, Example 3-8 on page 3-32, Example 3-9 on page 3-32

Vulcan Company is a monthly depositor whose tax liability for March 20-- is \$2,505.

1. What is the due date for the deposit of these taxes? _____
2. Assume that no deposit was made until April 29 (14 days late). Compute the following penalties:
 - a. Penalty for failure to make timely deposit. \$ _____
 - b. Penalty for failure to fully pay tax. \$ _____
 - c. Interest on taxes due and unpaid (assume a 6% interest rate). \$ _____
 - d. Total penalty imposed. \$ _____

"Excellent! In the past it was often difficult to point students to a particular example when there was more than one on a page."

-Karen Spray,
Northeast Community College

"I like this connection; students can easily test themselves on a specific example."

-Jennifer Morton,
Ivy Tech Community College

COMPUTERIZED PAYROLL PROJECT

NEW! Bring Payroll Processing to Life with Online Automated General Ledger Software

Automated General Ledger Software gives your students hands on, real world experience in processing a payroll on a computer. Students will maintain an employee database, process biweekly payrolls, and generate payroll entries and reports in a general ledger system, which is totally automated and graded in CengageNOWv2. In addition, the new online Appendix D walks students through the Payroll Project within the new online Automated General Ledger Software, providing screenshots of the system and Project Audit Tests for students to complete as they work through the Payroll Project.

Chapter 7—The Payroll Project

Chapter 7 consists of a practice set or simulation. The student applies the knowledge acquired in the first six chapters to a practical payroll simulation as the payroll accountant for Glo-Brite Paint Company. The Payroll Project can be completed manually using fold-out Payroll Registers located at the back of the text, or by using Automated General Ledger Software, powered by CengageNOWv2, and the new online Appendix D. Payroll tax returns can now be completed manually using forms in the textbook or in CengageNOWv2.

Appendix A—Excel Template Instructions for the Glo-Brite Payroll Project (Chapter 7: Short Version)



Appendix A consists of an electronic version of the books of account and payroll records. It has specific instructions for using the Excel template, illustrative case demonstrating November 20 payroll, and complete instructions for the short version project. Students are encouraged to complete one manual payroll from Chapter 7 prior to using the Excel template. The Excel template is located on the Payroll

Accounting Web site: www.cengage.com. Payroll tax returns can now be completed manually using forms in the textbook or in CengageNOWv2. Students may also complete the short version of the payroll project using Automated General Ledger Software, powered by CengageNOWv2, and the new online Appendix D.

OUTSTANDING PEDAGOGY

Tax Rates

The Social Security Act, as amended, imposes a separate tax on employees and employers for old-age, survivors, and disability insurance (OASDI) benefits and for hospital insurance (HI) benefits. The 2020 tax rates for both the employee and the employer portions of the tax follow:

LO 3

Apply the current tax rates and wage base for FICA and SECA purposes.

Learning Objectives

Learning Objectives are enumerated at the beginning of each chapter, and the numbers are repeated next to the start of the applicable text coverage for easy navigation.

Self-Study Quizzes

Self-Study Quizzes appear throughout each chapter and test the understanding of major concepts. Answers to the quizzes are available within each chapter.

Over the Line Real-World Ethics Cases

The Over the Line feature illustrates cases of companies either intentionally or unintentionally crossing the boundaries of fairness in their interpretation of payroll laws.

SELF-STUDY QUIZ 3-1

Which of the following are covered by FICA (indicate Yes or No)?

- ____ 1. Andrian Mitchell, a full-time life insurance salesperson.
- ____ 2. John Sain, a federal government employee, hired in 1990.
- ____ 3. Bonnie Stone, a real estate agent.
- ____ 4. Stuart Schuck, who offers lawn care service to homeowners in the neighborhood.

Note: Answers to Self-Study Quizzes are on page 3-34.

Over the Line

In a recent lawsuit settlement, FedEx Ground Package System Inc. will distribute \$2 million to an estimated 500 drivers who delivered packages for FedEx Ground and FedEx Home Delivery. The New York State Attorney General's Office filed the lawsuit alleging that drivers had been unlawfully misclassified as independent contractors, but were actually employees. This action sought restitution for violations of New York labor law, including unpaid overtime and unlawful deductions from wages.²

Check Figures Included at the End of This Text

Check figures provide help and assist users in staying on track as they learn the intricacies of payroll accounting.

Key Points Summary

This summary at the end of the chapter ties the key points in the chapter to the Learning Objectives.

Use of Marginal Icons

Use of marginal icons ("On the Net," "News Alert," "IRS Connection," and "On the Job") helps integrate the real-world applications of this facts-intensive area of study. "On the Net" icons allow optional integration of Internet research sites for learners. The icons in each chapter highlight the most current forms, instructions, and wage and tax laws available.

ON THE NET

<http://www.ssa.gov>

Social Security Online. Maintained by the Social Security Administration, it contains general FICA information.

<http://www.ssa.gov/employer/> "Employer W-2 Filing Instructions & Information."



THOROUGH END-OF-CHAPTER MATERIALS

End-of-chapter assignable materials include matching quizzes, review questions, discussion questions, practical problems, case problems, and continuing payroll problems, which can also be completed using Excel.

CONTINUING PAYROLL PROBLEM • A



Refer to the partially completed payroll register you started at the end of Chapter 2. You will now determine the amount of FICA taxes to be withheld from each employee's pay for the pay period ending January 8, 20--.

1. In the Taxable Earnings columns, record the amount of each employee's weekly earnings that is subject to FICA taxes. All wages are taxable for OASDI and HI taxes.

2. Using the amount recorded in step 1, compute the taxes for each employee and record in the appropriate column.

Note: Keep your partially completed payroll register for use at the end of Chapter 4.

UP-TO-THE-MINUTE TAX LAW CHANGES

Up-to-date knowledge is especially important for today's payroll specialists. This edition has been completely updated to reflect the tax law changes that affect payroll accounting. Users can find these changes listed on the "As We Go To Press" page in the text and on www.cengage.com.

INSTRUCTOR RESOURCES

Instructor Web Site (login.cengage.com)

The instructor website contains password protected instructor resources, including:

- Solutions Manual, containing Learning Objectives, Chapter Outline, and solutions to end-of-chapter exercises and problems
- Comprehensive PowerPoint slides
- Achievement Tests and Keys for additional testing
- Excel solutions for all end-of-chapter problems
- Excel solutions for Payroll Project (Appendix A)
- Automated General Ledger Software solutions for Payroll Project (online Appendix D)

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How do I access it?

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- Add *Payroll Accounting 2021* to your bookshelf (ISBN: 9780357358061).
- Once the book is added to your bookshelf, a link to access Cognero for *Payroll Accounting 2021* will appear, along with the link to the instructor and student companion sites.

How do I start?

- Online resources, user guides, and instructional videos are available on the instructor companion Web site at login.cengage.com.
- Please address any other technical questions to Cengage Learning Technical Support at support.cengage.com.

STUDENT RESOURCES

Student Companion Web Site (www.cengage.com)

Accessible through www.cengage.com with your Cengage Unlimited subscription or under the study tools tab of CengageNOWv2 course, the student Web site contains Check Figures, Web Links, and PowerPoint slides. The Excel templates are posted for the short version of the Glo-Brite Payroll Project, Continuing Payroll Problems A and B, and selected end-of-chapter problems designated by the Excel icon. In addition, the student has access to important information contained in Appendix B: Social Security Benefits and Appendix C: Unemployment Benefits.



"I am very satisfied with the ability to create a different version of a test at any given time."

-Vernon Bogan,
Brown Mackie College



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Our sincere appreciation is extended to the many instructors and students who have contributed suggestions to make the textbook more interesting, understandable, and practical to those who pursue the study of payroll accounting. As a result of their very helpful recommendations, the textbook will better satisfy the learning needs of students and the teaching needs of instructors. We would like to thank the following instructors for their valuable comments and suggestions:

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ABOUT THE AUTHORS



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After receiving his Master's in Business Administration from the University of Notre Dame and passing the Certified Public Accountants' exam in the early 1970s, Bernard Bieg turned his attention toward a career in teaching. He has been a professor at Bucks County Community College for more than 30 years. During that time, he has taught the whole spectrum of accounting offerings, including payroll accounting. He has maintained strong connections with today's business world by serving as an internal auditor for a local nonprofit organization. His association with this textbook began in 1977 as a co-author with one of the originators of the book, Bill Keeling.



Courtesy of Steve Bacher, Bucks County Community College

Judith A. Toland

Judith Toland received her Master's Degree in Education from Temple University in 2002, her Bachelor's Degree in Business Administration—Accounting from Bloomsburg University in 1981, and her Associate's Degree from Bucks County Community College in Business Administration in 1979. Judy has taught Accounting courses at BCCC since 1989 and is currently a professor in the Business and Innovation Department. Judy earned the prestigious Certified Payroll Professional (CPP) designation in 2011.



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The Need for Payroll and Personnel Records

CHAPTER 1

Can't wait to get started? Let's take our time and get an overview of the entire payroll process.

It's not easy being an employer. Many legal do's and don'ts must be followed before we even begin to consider the costs of employing workers, and the do's and don'ts are always changing.

We need to have applications completed, conduct interviews, check references, and examine credit reports. How far can we go in checking on the background of an individual applicant? What records should we keep on each employee? Where do we show the calculations that must be completed in order to give each employee a paycheck?

Get ready to begin the process of understanding payroll operations.

LEARNING OBJECTIVES

After studying this chapter, you should be able to:

- 1 Identify the various laws that affect employers in their payroll operations.
- 2 Examine the recordkeeping requirements of these laws.
- 3 Describe the employment procedures generally followed in a Human Resources Department.
- 4 Identify the various personnel records used by businesses and the type of information shown on each form.
- 5 Identify the *payroll register* and the *employee's earnings record*.

No matter the size of the company, the profitability, the product or service being sold, or the type of organization, employees have to be paid. This task has become more difficult as numerous regulations have been enacted. Recent legislation has only added to the administrative burden, and future legislation will continue this trend. The payroll person is no longer the employee stuck in the corner who only appears on payday to distribute paychecks. The job responsibilities have multiplied and now require persons with advanced knowledge in the area of payroll to handle the position. In many cases, the payroll specialist has been on the leading edge of change and automation.

Payroll professionals are responsible for processing over 4 billion pay statements each year to over 100 million people in the workforce of the United States. The processing of payrolls allows no margin for error. Employees, employers, and government agencies monitor the work performed by payroll professionals. A payroll accounting system is the only operation in a business that is almost completely governed by various federal, state, and local laws and regulations. Rules establish who is an employee, what is time worked, when overtime is to be paid, what deductions are made, when to pay an employee, what benefits have to be provided, and when taxes are paid. Local, state, federal, and international legislation must be monitored to follow the impact on payroll operations. Changes in legislation bring the potential for fraud and errors. Lack of compliance with these laws and regulations can result in both fines and back-pay awards.

The payroll professional has risen in the ranks of the accounting profession and now demands salaries commensurate with his or her peers. The confidentiality of the payroll information from each employee's pay rate to the garnishments



Photographie.eu/Shutterstock.com

imposed on some employees has tightened the link to the upper management teams. The confidence and trust that must be placed in payroll professionals have made them an integral part of the “inner circle.” This chapter briefly examines the various laws that affect employers in their payroll operations and the payroll and personnel records that they use to meet the requirements of the laws. First, however, let’s take a brief look at payroll accounting as a profession.

The Payroll Profession

A 2020 payroll survey of large employers conducted by Robert Half Associates revealed a range of salaries for payroll managers of \$61,000–\$130,000 and for payroll clerks of \$33,250–\$62,000.

Typically, an entry-level payroll clerk collects, reviews, approves, and records time records. The clerk also updates attendance records, including vacation, sick, and personal days. Once a payroll is processed, the clerk reviews the information to ensure the accuracy of each employee’s pay statement. Job responsibilities will include entering the following information into the payroll system:

1. Time-worked data.
2. Pay rate changes.
3. Tax rate changes.
4. Employee-authorized payroll deductions.
5. New employee information.
6. Marital and employee allowance changes.

Providing information to the Finance Department concerning the amounts to be paid for taxes, health insurance premiums, retirement plans, etc., may also be part of the evolving duties of the advancing payroll professional. One of the final stages involves the completion of payroll tax returns, employee information returns, federal and state census surveys, and fringe benefit and welfare plan returns.

Payroll professionals must keep abreast of the changes in their field so that they can remain technically proficient. This need has been met by an association of payroll practitioners—the American Payroll Association (APA). Membership in the association is open to anyone interested in or engaged in the support of payroll accounting. The APA offers professional training seminars and various publications to its members. Each year, the APA administers examinations for the payroll accountant and awards certificates to those who pass the exams, Fundamental Payroll Certification (to demonstrate a baseline of payroll competency) and Payroll Professional Certification (for the experienced professional to demonstrate the full-range of payroll competency). This testing and certification process has helped the payroll profession to gain recognition in the business community. The APA has also established guidelines for the conduct of the payroll professional. This “Code of Ethics,” shown in Figure 1.1, sets the direction for the profession.¹

One of a number of publications designed to provide current information to the practitioner is published by the Research Institute of America, Inc. This biweekly publication is entitled *Payroll Guide*, and it is a comprehensive review of changes in regulations affecting payroll reporting.²

¹ For more information on the organization, write to American Payroll Association, 660 North Main Avenue, Suite 100, San Antonio, TX 78205-1217; Tel: 210-224-6406; APA@americanpayroll.org.

² *Payroll Guide* is published by Thomson Reuters, 121 River Street, Hoboken, NJ 07030; Tel: 1-800-431-9025.

FIGURE 1.1
APA Code of Ethics

1. To be mindful of the personal aspect of the payroll relationship between employer and employee, and to ensure that harmony is maintained through constant concern for the Payroll Professional's fellow employees.
2. To strive for perfect compliance, accuracy, and timeliness of all payroll activities.
3. To keep abreast of the state of the payroll art with regard to developments in payroll technologies.
4. To be current with legislative developments and actions on the part of regulatory bodies, insofar as they affect payroll.
5. To maintain the absolute confidentiality of the payroll within the procedures of the employer.
6. To refrain from using Association activities for one's personal self-interest or financial gain.
7. To take as one's commitment the enhancement of one's professional abilities through the resources of the American Payroll Association.
8. To support one's fellow Payroll Professionals, both within and outside one's organization.

Source: For more information on the organization, contact the American Payroll Association, 660 North Main Avenue, Suite 100, San Antonio, TX 78205-1217; Tel: 210-224-6406; APA@americanpayroll.org.

WASHINGTON UPDATE

IN ORDER TO KEEP ABREAST OF MAJOR CHANGES IN THE LAWS CONCERNING PAYROLL ACTIVITIES, PLEASE REFER TO OUR ONLINE VERSION OF THE TEXT-BOOK WHERE THESE DEVELOPING CHANGES CAN BE LISTED AS THEY BECOME LAW. THE PRINTED VERSION WILL BE AS CURRENT AS POSSIBLE BASED ON THE INFORMATION AVAILABLE TO THE AUTHORS AT THE TIME OF THE WRITING OF THE MANUSCRIPT.

Fair Labor Standards Act

The Fair Labor Standards Act (FLSA), referred to as the Federal Wage and Hour Law, is covered in Chapter 2. The outline of the law deals with:

- Minimum wage (\$7.25 per hour) and overtime pay requirements. In addition, equal pay for equal work, employment of child labor, public service contracts, and wage garnishment.
- Coverage of employers engaged in interstate commerce or in production of goods and services for interstate commerce.
- Maintaining records that explain the basis of wage differentials paid to employees of opposite sex for equal work.
- Displaying a poster (from the regional office of the Wage and Hour division) informing employees of the provisions of the law.
- States' Minimum Wage and Maximum Hour Laws that also establish minimum wage rates for covered employees. Where both federal and state laws cover the same employee, the higher of two rates prevails (e.g., Rhode Island—\$10.50 per hour).
- The State's wage orders that also can affect pay periods, pay for call-in and waiting times, rest and meal periods, absences, meals and lodging, uniforms, etc.

LO 1

Identify the various laws that affect employers in their payroll operations.

ON THE JOB

Up until July 24, 2009, the minimum wage was \$6.55 per hour.

ON THE NET

<http://www.dol.gov/whd/minwage/america.htm>

This Web site contains the minimum wage laws by state in map and text form.

Federal Insurance Contributions Act

Chapter 3 covers FICA (social security) in detail; however, the basic provisions of the act deal with:

- Tax on employees (set percent of their gross wages) and employers for the Federal Old-Age and Survivors' Trust Fund and the Federal Disability Insurance Trust Fund.
- Separate tax on employees and employers to finance the Health Insurance Plan—Medicare.
- Tax on net earnings of the self-employed individual (Self-Employment Contributions Act—SECA).
- Making payments to persons who are entitled to benefits under these social security taxes.

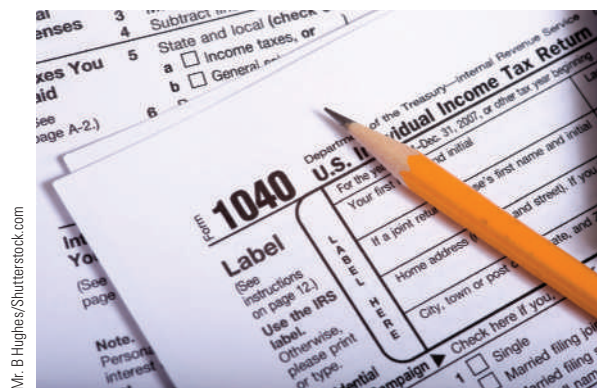
Income Tax Withholding Laws

Chapter 4 covers income tax withholding, but basically:

- **Income tax** is levied on the earnings of most employees and is deducted from their gross pay.
- Income taxes can be imposed by federal, state, and local governments.
- Federal Income Tax (FIT) employs a percentage formula or a wage bracket chart used by each employer to withhold a specified amount from each wage payment.
- State tax rates vary from state to state.

ON THE NET

<http://www.payroll-taxes.com/>
Premiere Payroll Tax Research Library. This site contains addresses, phone numbers, form numbers (with explanations), and filing dates for federal and state taxing authorities.



Unemployment Tax Acts

Chapter 5 covers unemployment taxes with a detailed discussion of:

- Tax levied on employers (Federal Unemployment Tax Act—FUTA) that is used to pay state and federal administrative expenses of the unemployment program.
- A credit granted against most of the FUTA tax if the employer pays a state unemployment tax. A smaller credit is granted to states that have not paid back borrowings from the federal government which were used to pay the cost of benefits to their eligible unemployed workers.
- State unemployment taxes (SUTA) on employers imposed by all states. These taxes are used to pay unemployment benefits.

- Standards set by the Social Security Act that result in a high degree of uniformity in the requirements of state unemployment laws.
- Employers' need to be aware of the SUTA laws in the states where they operate.

Recordkeeping Requirements

Although the laws do impose recordkeeping requirements on employers, no specific form of record is mandated. Figure 1.2, on page 1-6, lists the specific information needed and the retention time periods required.

LO 2

Examine the recordkeeping requirements of these laws.

Fair Employment Laws

Federal and state legislations have been enacted to enforce **fair employment practices**. Many of these laws deal with discrimination on the basis of age, race, color, religion, gender, or national origin.

Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964, entitled “Equal Employment Opportunity,” provides for several fair employment practices. The act, as amended, forbids employers to discriminate in hiring, firing, promoting, compensating, or in any other condition of employment on the basis of race, color, religion, gender, or national origin. Guidelines, established by the Equal Employment Opportunity Commission (EEOC), also include physical characteristics in the definition of national origin discrimination. For example, unnecessary height or weight requirements could exclude some individuals on the basis of their national origin. The EEOC has also declared that sexual harassment violates the Civil Rights Act. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature can constitute sexual harassment.

The EEOC prohibits unions from excluding or segregating their members on these bases, and employment agencies may not refer or refuse to refer applicants for employment on the basis of race, color, religion, gender, or national origin.

This act covers all employers who engage in an industry “affecting commerce” and who employ 15 or more workers for each working day in each of 20 or more weeks in the current or preceding calendar year. Employers specifically excluded from coverage of the fair employment practices include the U.S. government (state and local governments are covered), a corporation wholly owned by the United States, Indian tribes, private membership clubs (other than labor unions) exempt from federal income tax, and religious societies in the employment of members of a particular religion to work on the societies’ religious activities. Although the U.S. government is classified as an exempt employer, the act states that the policy of the U.S. government provides equal employment opportunities without discrimination and that the president should use his existing authority to implement this policy.

The act requires an employer information report (EEO-I) to be filed annually by employers with federal government contracts of \$50,000 or more who have 50 or more employees, and employers without a government contract who have 100 or more employees.

Title VII does not protect an employee from arbitrary treatment or dismissal. As long as the employer applies these policies in a nondiscriminatory manner, Title VII requirements have not been violated.

ON THE NET

<http://www.eeoc.gov/> This EEOC homepage overviews guidelines and services of the Equal Employment Opportunity Commission (EEOC).

ON THE JOB

Title VII requires employers to reasonably accommodate workers’ religious-based requests without causing an undue hardship to others.

FIGURE 1.2

Summary of Information Required by Major Federal Payroll Laws

	Item	Fair Labor Standards Act	Social Security	Income Tax Withholding	Unemployment Tax
EMPLOYEE DATA	Name	Yes	Yes	Yes	Yes
	Address	Yes	Yes	Yes	Yes
	Gender	Yes	....	....	....
	Date of birth	Yes	....	....	....
	Social security number	Yes	Yes	Yes	Yes
	Withholding allowances claimed	....	....	Yes	....
	Occupation	Yes	Yes	Yes	Yes
	Period employed	....	Yes	Yes	Yes
	State where services rendered	....	Yes	....	Yes
EMPLOYMENT DATA	Beginning and ending dates of employee's employment	....	Yes	Yes	....
	Day and time of day when workweek begins	Yes	....	....	....
	Regular hourly rate of pay	Yes	....	....	....
	Basis of wage payments; e.g., \$9.25 per hour; \$74.00 per day	Yes	....	....	....
	Hours worked each day	Yes	....	....	....
	Hours worked each week	Yes	....	....	....
	Daily or weekly straight-time pay, exclusive of overtime pay	Yes	....	....	....
	Amount and nature of exempt pay	Yes	....	....	....
	Weekly overtime pay	Yes	....	....	....
	Total additions to or deductions from wages	Yes	....	....	....
	Total remuneration for payroll period	Yes	Yes	Yes	....
	Total remuneration for calendar year	....	Yes	....	Yes
	Date of payment	Yes	Yes	Yes	Yes
	Payroll period	Yes	Yes	Yes	Yes
TAX DATA	Employee's wages subject to tax for payroll period	....	Yes	Yes	....
	Employee's wages subject to tax for calendar year	....	Yes	....	Yes
	Taxable remuneration—if different from total remuneration, reason for difference	....	Yes	Yes	Yes
	Tax deductions from employee's wages	....	Yes	Yes	Yes
	Date tax collected if other than date of payment	....	Yes	Yes	....
	Tax paid by employer but not deducted from employee's wages	....	Yes	Yes	Yes
GEN'L	Specific form of records	No	No	No	No
	Number of years records must be kept	2–3	4*	4*	4*

*Four years after the due date of the payment of the tax to which the records relate.

To accomplish the purpose of eliminating discrimination, the EEOC tries to obtain voluntary compliance with the law before filing a court action for an injunction. It can institute court proceedings for an injunction if it believes that any person or group of persons is not complying with the law. Where a state or local law forbids discriminatory practices, relief must first be sought under the state or local law before a complaint is filed with the Commission. In most states, a special commission or the state Department of Labor administers the laws and may authorize cease-and-desist orders that are enforceable in the courts.

The Civil Rights Act of 1991 grants compensatory and punitive damages in cases where the discrimination is intentional. It also provides for the repayment of attorney fees and the possibility of a jury trial.

Executive Orders

Employers not subject to the Title VII coverage discussed above may come within the scope of the Civil Rights Act by reason of a contract or a subcontract involving federal funds. In a series of **executive orders**, the federal government has banned, in employment on government contracts, discrimination based on race, color, religion, gender, or national origin.

Age Discrimination in Employment Act

The Age Discrimination in Employment Act of 1967 (ADEA) prohibits employers, employment agencies, and labor unions from discriminating on the basis of age in their employment practices. The act covers employers engaged in an industry affecting interstate commerce (who employ 20 or more workers), employment agencies, and labor unions. The act also covers federal, state, and local government employees, other than elected officials and certain aides not covered by civil service. The ADEA provides protection for virtually all workers over 40. A key exception is executives who are 65 or older and who have held high policy-making positions during the two-year period prior to retirement. If such an employee is entitled to an annual retirement benefit from the employer of at least \$44,000, the employee can be forcibly retired.

In order to prove compliance with the various fair employment laws, employers must keep accurate personnel and payroll records. All employment applications, along with notations as to their disposition and the reasons for the disposition, should be retained. All records pertaining to promotions, discharges, seniority plans, merit programs, incentive payment plans, etc., should also be retained.

ON THE JOB

Court rulings have updated the regulations to state that favoring an older individual over a younger individual because of age is not unlawful discrimination under the ADEA.

Over the Line

Louisville-based Texas Roadhouse with more than 450 locations in the United States fought a lawsuit brought by 55 women and men charging discrimination against workers age 40 and older by refusing to employ them as hosts, bartenders, and servers. In legal filings, the company stated that even if its policies had an adverse impact on older workers, they were lawful, because they are job-related and consistent with business necessity (in that servers must line dance, wear jeans, and work evenings). The company had to pay \$12 million to settle the Equal Employment Opportunity Commission's lawsuit.

ON THE JOB

Even though alcoholism is a disability under the ADA, employees can be disciplined for misconduct that occurred while under the influence.

Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) prohibits employers with 15 or more employees, employment agencies, labor organizations, or joint labor-management committees from discriminating against qualified persons with disabilities because of their disability.

The prohibition of disability-based discrimination applies to job application procedures, hiring, advancement, termination, compensation, job training, and other conditions of employment. In addition, reasonable accommodations, such as wheelchair-accessible restrooms and ramps for qualified disabled job applicants and workers, must be provided.

Under the ADA, a person is considered “qualified” if he or she can perform the essential functions of the job with or without reasonable accommodation.

Other Federal Laws Affecting the Need for Payroll and Personnel Records

Generally, the payroll and personnel records and reports that a business prepares and retains to meet the requirements of the laws already discussed provide sufficient information needed under the laws outlined in Figure 1.3 and discussed below.

Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996

The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) mandates that all states must establish new-hire reporting programs. Every employer is required to report the name, address, and social security number on each new employee and the employer’s name, address, and federal employer identification number *within 20 days of hire* to the State Directory of New Hire Reporting. In many states, submission of a copy of the employee’s W-4 form (Employee’s Withholding Allowance Certificate) will satisfy the reporting requirement. This information must then be forwarded within 5 business days by the state to the federal Office of Child Support Enforcement (OCSE) for entry into the National Directory of New Hires. Employers with operations in more than one state may file one report with the state of their choice. That state is then to share the information with the other states.

New-hire reporting requirements in 16 states now also include information reporting on independent contractors. The main reason for this requirement is to help in the enforcement of child support obligations. In addition, it will reduce fraud in the unemployment, workers’ compensation, and public assistance programs. Failure to report this information can result in fines of up to \$25.00 per new hire. Even though under federal law employers do not have to report this same information on independent contractors, some states do require such reporting.

Immigration Reform and Control Act of 1986

The Immigration Reform and Control Act of 1986 (IRCA) bars employers from hiring and retaining persons unauthorized to work in the United States. It also requires all employers to verify employment eligibility for all individuals by examining the employee’s verification documents and having the employee complete **Form I-9, Employment Eligibility Verification**. Form I-9 lists the documents that an employee can choose from to furnish to the employer. These documents identify the employee and, if an immigrant, verify authorization to work in the United States. The employer must examine the documents to verify their authenticity and then record the appropriate information on the employee’s Form I-9. Employers must also follow up on

FIGURE 1.3**Federal Laws Affecting the Need for Payroll and Personnel Records**

Law	Coverage	Contract Dollar Minimum	Major Provisions
Davis-Bacon Act (1931)	Laborers for contractors or subcontractors on federal government contracts for construction, alteration, or repair of public buildings or works.	\$ 2,000	Minimum wage set by secretary of labor (weight is given to union wage scale prevailing in the project area).
Walsh-Healey Public Contracts Act (1936)	Laborers for contractors who furnish materials, supplies, articles, and equipment to any agency of the United States.	\$15,000	Single minimum wage determined by secretary of labor for all covered employees in a given industry.
McNamara-O'Hara Service Contract Act (1965)	Service employees on contracts with the United States or the District of Columbia for the furnishing of services.	\$ 2,500	Minimum wage set by secretary of labor based on wages and fringe benefits found to be prevailing in that locality.
Occupational Safety and Health Act (OSHA) (1970)	Any business involved in interstate commerce.	\$ 0	Sets specific occupational and health standards for employers; requires that records be kept of work-related injuries, illnesses, and deaths.
Vocational Rehabilitation Act (1973)	Companies with federal agency contracts.	\$ 2,500	Must include in the contract an affirmative action clause requiring that the handicapped applicant or employee will be given appropriate consideration.
Vietnam Era Veterans' Readjustment Act (1974)	Government contractors with federal contracts or subcontracts.	\$150,000	Requires contractors to take affirmative action to employ and advance in employment qualified veterans of the Vietnam era and disabled veterans.

documents (with an expiration date) that limit the employee's authorization to work. The employer cannot ask an applicant about his or her immigration status before a conditional job offer.

Photocopying new employees' I-9 documents is permitted but not required. If done, photocopying should apply to *all* new employees. Employers are not required to submit Forms I-9 to the U.S. Citizenship and Immigration Service.

Section 1 of the form must be signed by the employee no later than the first day of employment, but not before accepting a job offer. Section 2 must be signed by the employer or authorized representative within three business days of the employee's first day of employment. The person signing Section 2 must be the same person who examined the employee's documents.

Failure to produce the required documents can result in termination as long as the employer applies this rule uniformly to all employees. If it is confirmed that an employee is not legally authorized to work in this country, the employee must be fired immediately.

The process of collecting, filing, and retaining I-9 forms and supporting documentation should be a centralized function so that inconsistencies are eliminated. The forms (I-9) and supporting documentation should be filed separately from other personnel records so that the information contained in the forms is kept private. The form must be retained for three years after the date of hiring or for one year after the date the employment is terminated, whichever is later. Terminated employees who are rehired within three years of the date of the initially filed Form I-9 need only reverify the information to the employer.

The U.S. Citizenship and Immigration Services (USCIS) can levy fines if an audit uncovers hiring, recruiting, or referring violations.

The fines on employers are broken down as follows:

- First offense—\$573 to \$4,586 per undocumented employee.
- Second offense—\$4,586 to \$11,463 per undocumented employee.
- Third offense or more—\$6,878 to \$22,927 per undocumented employee.
- Pattern of violations—extra fines and up to six months in jail.

There are also fines levied for document fraud.

Over the Line

One of the largest ever penalties in an immigration case (\$95 million) was assessed to a Pennsylvania-based tree company for hiring workers whom company executives knew lacked proper immigration documents.

E-Verify

This is a government-run Internet-based system that allows employers to check the employment eligibility of new hires by comparing the information on an employee's Form I-9 with databases of the Social Security Administration and the Department of Homeland Security. E-Verify requires a social security number (SSN) for the employee, so even though a newly hired employee is not required to have applied for a SSN before completing Form I-9, the employee must apply for it as soon as possible.

For most employers, this is a voluntary program; however, if the employer has a federal contract or subcontract that contains an E-Verify clause, the new hires of that organization and the employees performing work on the federal contract must be verified. All new federal employees must have their employment eligibility confirmed through E-Verify. State laws can also require employers to E-Verify (mandatory in over 20 states for some or all employees).

If there is a record mismatch, a tentative nonconfirmation is issued to the employer who must then notify the affected employee. If the employee had voluntarily provided his or her e-mail address on Form I-9, E-Verify will inform the employee at the same time as the employer. In case of a mismatch, the employee has eight working days to correct the discrepancy or be fired.

Family and Medical Leave Act of 1993

The Family and Medical Leave Act of 1993 (FMLA) requires employers that have 50 or more employees within a 75-mile radius, for at least 20 weeks in the current or preceding calendar year, to grant workers *unpaid leave* for a family or medical emergency. In cases of childbirth, adoption, or serious illness of the employee or the employee's child, spouse, or parent, the employer must offer the worker as many as 12 weeks of unpaid leave. The leave may be used all at once, or in separate weeks, days, or hours. However, the leave must be taken within 12 months of the qualifying event. It is the employer's obligation to designate leave as an FMLA-qualifying event. Employees cannot pick and choose when they want to use FMLA time (even if they have accumulated sick leave); however, the FMLA time can run concurrently with paid sick time.

ON THE JOB

FMLA absenteeism is highest among health-care employees with 39 percent of their workforce with open FMLA leave (average length of 28 days).



O_Lypa/Shutterstock.com

During the leave, employers must continue health-care coverage, and they must also guarantee that the employee will return to the same job or to a comparable position. The employer can substitute an employee's earned paid leave for any part of the 12-week family leave as long as notification is given to the employee within two business days of receiving the request for the leave and it does not violate an existing employment contract.

Employers that pay employees on family and medical leave at least 50 percent of their normal wages may take a general business tax credit equal to 12.5 percent of the wages paid. The credit increases (to a maximum of 25 percent) in increments of 0.25 percent for each percentage point over the 50 percent starting point. The credit applies to wages paid for up to 12 weeks of leave time and does not apply to employees with wages over \$72,000. This provision was set to expire on December 31, 2020, but Congress is expected to extend it.

An expansion of FMLA allowed employees to take leave (up to 12 weeks) when a family member is on active duty or when the employee cares for a family member with a serious injury or illness incurred in the line of duty (up to 26 weeks).

An employee who has used the 12-week allotment under FMLA may be entitled to additional time off as a reasonable accommodation under the Americans with Disabilities Act (see page 1-8) as long as the employee's condition qualifies as a disability.

Employers can exempt the following:

1. The highest-paid 10 percent of their workforce.
2. Those who have not worked at least one year and at least 1,250 hours in the previous 12 months for the company.

Current regulations allow employers to contact employees' doctors for clarification on the information on the employees' certification forms. This contact cannot be made by the employees' direct supervisors, but must be done by human resources professionals, leave administrators, or management officials.³

The definition of "spouse" was revised to examine the law of the state in which the marriage was entered into instead of the law of the state in which the employee resides. This allows all legally married couples (whether opposite-sex, same-sex, or married under common law) to have consistent family leave rights regardless of where they live.

An organization that is below the limits of coverage could be courting an FMLA lawsuit if in its employee handbook or benefits materials there is a statement that it complies with the FMLA. An employee can sue an employer who violates the general leave requirements within two years of the violation or three years if it is a willful violation.

A few states (California, New Jersey, New York, and Rhode Island) have implemented *paid* family leave plans. For example, New Jersey now allows workers 12 weeks' paid leave (at two-thirds of their salary up to \$859/week) to care for family members with a serious health condition, or to be with a child during the first 12 months after his or her birth or adoption. The program is funded through payroll deductions that are estimated to cost employees a maximum of \$30.33 a year.

Uniformed Services Employment and Reemployment Rights Act of 1994

The Uniformed Services Employment and Reemployment Rights Act (USERRA) gives military personnel the right to take leaves of absences from their civilian jobs for active military service and to return to their jobs with accrued seniority. The reinstatement must be to the employee's original position or its equivalent, except for the dishonorably discharged. In addition, the return must be granted within two weeks of the job request, and health benefits must be started without any waiting period.

³ "Compensation and Benefits," *HR Specialist*, March 2012, p. 2.

Employee Retirement Income Security Act of 1974

The Employee Retirement Income Security Act of 1974 (ERISA) covers employee pension and welfare plans established or maintained by any employer or employee organization representing employees engaged in commerce or in any industry or activity affecting commerce. The legislation safeguards pension funds by regulating how the funds are to be raised and disbursed, who controls them, and what is to be done when funds are insufficient to pay promised benefits. The law *does not* require every employer to establish a pension plan; however, if there is an employer pension plan, every employee is eligible *after reaching age 21 or completing one year of service*, whichever is later.

ERISA has different funding requirements on benefit plans depending on whether they are a:

- Defined benefit plan: Benefits to the employee or his/her beneficiary will be based on a definitive formula based on length of service, average compensation, or compensation during the final year of service.
- Defined contribution plan: Benefits are based solely on the contributions into the employee's account. There are no ERISA funding requirements on most defined contribution plans.

ERISA was designed primarily to ensure that workers covered by private pension plans receive benefits from those plans in accordance with their credited years of service with their employers. **Vesting** conveys to employees the right to share in a retirement fund if they are terminated before the normal retirement age. The vesting process is linked to the number of years needed for workers to earn an equity in their retirement plans and to become entitled to full or partial benefits at some future date if they leave the company before retirement. Once vested, a worker has the right to receive a pension at retirement age, based on years of covered service, even though the worker may not be working for the firm at that time. Currently, the law provides for full vesting of the employer's contributions *in three years or gradually over six years* (20 percent after two years and 20 percent a year for the next four years). The plan administrator must file an annual report (Form 5500) with the federal government by the end of the seventh month following the close of the plan year.

Benefit payouts must begin within 60 days of the latest of these events:

- When the employee reaches age 65,
- 10 years after participation began, or
- The plan year in which the employee leaves the company.

To protect against potential benefit losses because of a plan's termination, ERISA set up a government insurance program, the Pension Benefit Guaranty Corporation, to pay any benefits that could not be met with funds from the plan.

Disclosure Requirements

Informational reports must be filed with the U.S. Department of Labor, the IRS, and the government insurance program. In general, the reports consist of descriptions of the plans and the annual financial data. The plan descriptions include the eligibility requirements for participation and for benefits; provisions for nonforfeitable pension benefits; circumstances that may result in disqualification, loss, or denial of benefits; and procedures for presenting claims. The annual reports include financial statements and schedules showing the current value of plan assets and liabilities, receipts and disbursements, and employer contributions; the assets held for investment purposes; insurance data; and an

ON THE JOB

An employer can have a two-year service requirement, but the plan must be 100 percent vested as soon as the employee becomes a plan participant.

opinion by an independent qualified public accountant. Upon written request from the participants, the administrator must also furnish a statement, not more than once in a 12-month period, of the total benefits accrued, accrued benefits that are vested, if any, or the earliest date on which accrued benefits will become vested.

Affordable Care Act of 2010 (ACA)

The Affordable Care Act (Obamacare) consists of two pieces of legislation: Patient Protection and Affordable Care Act and Health Care and Education Reconciliation Act. The act was designed to expand health insurance coverage to more Americans while increasing benefits and lowering costs for consumers.

State-based health insurance exchanges are established for those who do not have access to employer-provided coverage or do not qualify for public programs like Medicaid. These will be marketplaces where individuals can comparison shop. Individuals and families with incomes between 100 percent and 400 percent of the federal poverty level will receive subsidies to buy coverage.

The Tax Overhaul Bill of 2017 repealed the requirement that all Americans obtain health insurance. This has caused a drop in the number of insurance companies on the states' insurance exchanges. It has also added to an uncertain future for the ACA.

Applicable Large Employers (ALEs)

Employers with 50 or more full-time employees during the previous year (**applicable large employers—ALEs**) are required to provide coverage for all full-time employees and their dependents. If an employer does not offer coverage, the employer will owe a penalty for each full-time employee who, under the health law, is eligible for and receives federally subsidized health-care coverage.

There are two information reporting obligations for applicable large employers (Form 1095-C):

- A return to be filed with the IRS for each employee with information about the health coverage offered, or not offered, to that employee during the previous year. This return is due to the IRS by February 28 on paper or March 31 if filed electronically.
- An information statement to each full-time employee containing certain health coverage facts. This statement is due by January 31.

Penalties for failing to comply with the information reporting requirements can result in fines of \$250 for each return with a total maximum penalty of \$3,000,000.

Small Employers

A sliding scale income tax credit is established for **small employers** (fewer than 50 full-time equivalent employees with average annual wages of less than \$50,000) who offer health insurance coverage to their employees. Employers can purchase affordable insurance through the Small Business Health Options Program. If the employer pays at least 50 percent of the cost (the premium rate for an employee with single coverage), there is a 50 percent maximum credit of the employer's premium cost (35 percent for tax-exempt employers) against the employer's income tax liability.

The law also provides for a Medicare tax increase on wages over \$200,000 for single filers and \$250,000 for joint filers. This tax must be withheld by the employer of any worker whose wages exceed \$200,000 (see page 3-9).

ON THE JOB

According to the Kaiser Family Foundation, in 2019 the total average cost of employer-provided health insurance was over \$7,000 for single coverage and over \$20,000 for family coverage.



Other State Laws Affecting the Need for Payroll and Personnel Records

States have enacted other laws that have a direct bearing on the payroll and personnel records that an employer must maintain and on the rights that must be extended to employees.

Workers' Compensation Laws

Workers' compensation insurance protects employees and their dependents against losses due to work-related injury, illness, or death. Most states have passed laws that require employers to provide workers' compensation insurance through one of the following plans:

1. Contribution to a state compensation insurance fund administered by an insurance department of the state.
2. Purchase of workers' compensation insurance from a private insurance company authorized by the state to issue this type of policy.
3. Establishment of a self-insurance plan, approved by the state, under which the company bears all risk itself.

Over the Line

A New Jersey plumbing company denied workers' compensation benefits to an employee who was in a car accident as he was driving to get coffee because his meeting at a work site was delayed. An appeals court awarded benefits, stating that off-site employees are covered during slight diversions from their normal activities.⁴

Benefits are paid to cover medical bills and also to provide a percentage of the worker's regular wages during the time that the employee is unable to work. The employer bears the cost of the workers' compensation insurance premiums, except in Montana, New Mexico, Oregon, and Washington, where both the employer and the employee contribute to the workers' compensation fund.

The insurance premiums are often based upon the total gross payroll of the business and may be stated in terms of an amount for each \$100 of weekly wages paid to employees. The premium rates vary among types of jobs and the employers' accident experience rate.

EXAMPLE 1-1

The rate for office workers of Volpe Parts Company is \$0.75 per \$100 of payroll, while the rate for machine-shop workers is \$1.90 per \$100 of payroll.

State Disability Benefit Laws

California, Hawaii, New Jersey, New York, Rhode Island, and Puerto Rico have passed laws to provide **disability benefits** to employees absent from their jobs because of illness, accident, or disease *not arising out of their employment*. Chapter 5 presents further discussion of state disability benefit laws.

⁴"Employment Law," *HR Specialist*, October 2019, p. 5.

Human Resources and Payroll Accounting Systems

Up to this point, we have seen that a business must keep human resources and payroll records to meet the requirements of the various laws under which it operates. In developing its human resources and payroll accounting systems, a business should design basic forms and records that satisfy the requirements of all the laws applicable to that organization. Properly designed forms and records, as described later in this chapter, not only supply the information required by the various laws but also provide management with information needed in its decision-making process. They also result in savings in both time and work because the necessary information is recorded, stored, retrieved, and distributed economically, efficiently, and quickly.

Before studying the employment process, it is important to examine the close relationship between the Payroll Department and the Human Resources Department. Some businesses consider payroll to be strictly an accounting function and, as such, place it under the direct control of the chief financial officer. However, because of the need for frequent interchange of information between the Payroll and Human Resources departments, the trend has been to place payroll under the control of the director of human resources. This movement toward centralization eliminates the duplication of many tasks. With the required information in one department, the process of completing these forms is shortened. Further, questions from employees concerning sick pay, vacation pay, and other benefits can be answered from one source.

Individual computer programs have been developed for the combined needs of payroll and human resources. Information concerning such diverse activities as attendance, retirement benefits, health insurance coverages, and bonus pay is now available to designated employees in the Human Resources Department through a computer terminal.

Human Resources System

In many medium-size and large companies, the **human resources system** embodies all those procedures and methods related to recruiting, selecting, orienting, training, and terminating personnel. Extensive recordkeeping procedures are required in order to:

1. Provide data for considering promotions and changes in the status and earnings of workers.
2. Provide the information required by various federal, state, and local laws.
3. Justify company actions if investigated by national or state labor relations boards.
4. Justify company actions in discussions with local unions or plant committees.

Before the Payroll Department can pay newly hired employees, the Human Resources Department must process those employees. Figure 1.4, on page 1-16, charts the procedure that the Human Resources Department follows in this hiring process.

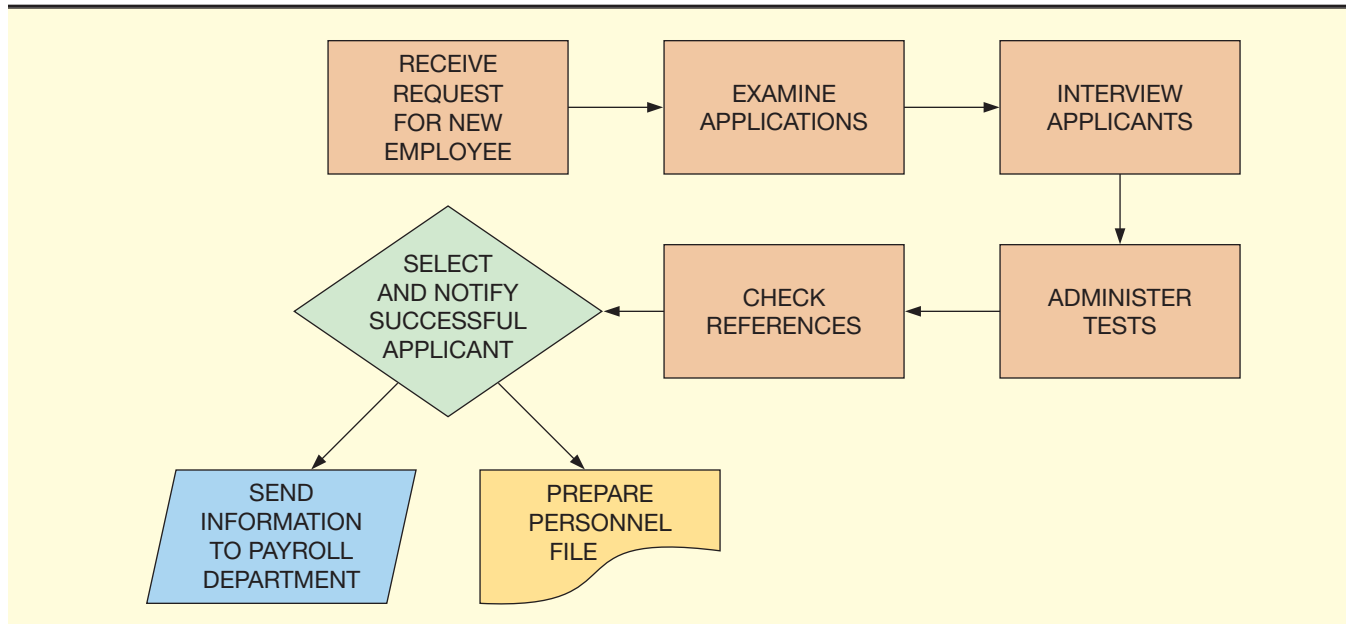
A number of companies that manufacture business forms have available standard personnel forms and records that may be successfully used if a business does not care to design its own special forms. In small companies, an application form or an employee history record may be the only document needed. Throughout the remainder of this chapter, several illustrations augment the discussion of the various human resources and payroll records. In these examples, we shall follow Cheryl Crowson from her initial application for employment with Palmero Maintenance Company to her entry onto the company's payroll records.

LO 3

Describe the employment procedures generally followed in a Human Resources Department.

FIGURE 1.4

Human Resources Department Procedure in the Hiring Process



Job Descriptions

One way to protect companies from discrimination charges in hiring practices is to have true and clear job descriptions for every position in the organization. This is one of the items that courts examine in determining the validity of a discrimination charge. The descriptions must be accurate and must have been prepared before the job was advertised or the interviewing began.

The descriptions should include:

- Job title.
- Essential and nonessential duties.
- Department/supervisor.
- Necessary skills.
- Needed experience.
- Education, credentials required.
- Working conditions.
- Results expected.⁵

In today's world, many of the paper forms presented in this chapter have been replaced with electronic substitutes. They are illustrated here to show the type of information that should be included no matter what format is used.

Requisition for Personnel

The **requisition for personnel** form notifies the Human Resources Department of the need for additional or replacement employees. The requisition for new employees can be initiated in a number of ways. Some companies utilize a memo that is forwarded to the Human Resources Department stating the title of the

⁵"Employment Law," *HR Specialist*, April 2018, p. 7.

position to be filled, a brief description of the duties of the job, and the salary range. Other companies may use preprinted forms. A preprinted form should indicate the type and number of persons needed, the position to be filled, the rate of pay for the job, the salary range, the date the employee is needed, a summary of any special qualifications, and whether the position is permanent or temporary. This process can also be completed electronically, through the use of a company's e-mail system.

Application for Employment

Every business, regardless of size, should have an application form (similar to that in Figure 1.5, on pages 1-18 and 1-19) to be filled out by a person seeking employment. The **application form** gives the applicant an opportunity to provide complete information as to:

1. Personal information including the name, address, telephone number, and social security number of the applicant.
2. Educational background including a summary of the schools attended, whether the applicant graduated, and degrees conferred.
3. Employment and experience record.
4. Type of employment desired.
5. References.

The application form also provides information for the checking of references, serves as a guide to effective interviewing, and provides information for correlation with data obtained from employment tests. It serves as a permanent record for the business. This form can also be set up to be completed electronically by the applicant.

Employers subject to fair employment laws must make certain that all aspects of the pre-hire inquiries are free of discrimination on the basis of race, color, religion, gender, national origin, or age. A number of states have instituted a "lifestyle discrimination law" that deals with discrimination based on employees' use of legal products on their own time, e.g., tobacco use. **Pre-hire inquiries** include questions asked in the employment interview and on application forms, résumés of experience or education required of an applicant, and any kind of written testing. None of the federal civil rights laws specifically outlaws questions concerning the race, color, religion, gender, national origin, or age of an applicant. However, if the employer can offer no logical explanation for asking such questions, the EEOC and the Wage and Hour Administrator view such questions as discriminatory. Of course, pre-hire questions pertaining to religion, gender, national origin, or age are allowed when these factors are bona fide occupational qualifications for a job. Many states have banned the use of a check box relating to an applicant's criminal past; however, employers can still ask about arrest records during the job interview. The EEOC has stated that criminal background checks can only be used if there is a solid business reason for them. Asking for arrest records is illegal.

Background checks must be in compliance with the rules established by the Fair Credit Reporting Act (FCRA) of 1968. These steps must be closely followed where an **investigative consumer report** is being used:

- Notify the applicant in writing that the information obtained will be used in the employment decision.
- Have the applicant sign the notification.
- Give the applicant a notice and a copy of the report at least five days before making an adverse employment decision.
- Provide a copy of the government document "A Summary of Your Rights Under the FCRA."

LO 4

Identify the various personnel records used by businesses and the type of information shown on each form.

FIGURE 1.5
Application for Employment

APPLICATION FOR EMPLOYMENT
An Affirmative Action/Equal Opportunity Employer

POSITION APPLIED FOR Payroll Specialist

This job application is valid only for the position you have listed above. If you wish to be considered for other positions, you will need to complete and/or submit a separate application for each position.

PERSONAL

Name Cheryl Crowson

Address 1630 West End Ave. Huntington, WV 25703

STREETCITYSTATEZIP

Telephone (304) 555-2192 (304) 555-1618

WORKHOMEOTHER

Social Security Number 000-00-6357

Have you worked for Palmero Maintenance Company before? YES ☐ NO ☒

If Yes, when? _____

If hired, can you provide proof of identity and eligibility to work in the U.S.? YES ☒ NO ☐

NAMES	ADDRESS	ACADEMIC MAJOR	NO. OF YEARS ATTENDED	DEGREE
HIGH SCHOOL <i>Centennial Senior</i>	<i>Stanford Road Huntington, WV</i>	<i>Business</i>	<i>4</i>	<i>Yes</i>
COLLEGE, JUNIOR COLLEGE, OR UNIVERSITY <i>Huntington Community College</i>	<i>Swamp Road Huntington, WV</i>	<i>Business— Occupational</i>	<i>2</i>	<i>Associate</i>
TECHNICAL OR VOCATIONAL				

Other details of training:

(Courses)

(Cert.)

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FIGURE 1.5 (concluded)**Application for Employment****EMPLOYMENT HISTORY**

List in sequence all employers, beginning with present/most recent employer, including military experience and apprenticeship. Explain any gaps in employment in comments section below. If additional space is needed, please attach sheet(s).

EMPLOYER	TELEPHONE	DATES EMPLOYED				Summarize the nature of the work performed and job responsibilities
		FROM Month Year	TO Month Year			
Brennan Shipping Co.	(304) 555-1119					
ADDRESS 193 Mountain Blvd., Huntington, WV		5/10		Present		Input time worked
JOB TITLE Payroll Assistant						information, checked
IMMEDIATE SUPERVISOR AND TITLE Helen Young—Payroll Manager		Full-time ✓		Part-time		payroll, distributed
REASON FOR LEAVING Want to have more responsibility						checks
MAY WE CONTACT FOR REFERENCE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> LATER						

EMPLOYER	TELEPHONE	DATES EMPLOYED				Summarize the nature of the work performed and job responsibilities
		FROM Month Year	TO Month Year			
AUS Drug	(304) 555-0101					
ADDRESS Broad & Cherry Sts., Huntington, WV		9/08		5/10		Served as head cashier
JOB TITLE Clerk/Cashier						and maintained inventory
IMMEDIATE SUPERVISOR AND TITLE John Stumley—Manager		Full-time		Part-time ✓		
REASON FOR LEAVING Graduated college—Full-time position						
MAY WE CONTACT FOR REFERENCE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> LATER						

REFERENCES

Give names of persons we may contact to verify your qualifications for the position:

Edna White	Instructor	Teacher	Huntington Community College
Name	(Title)	(Occupation)	(Organization)

Swamp Road, Huntington, WV	Bus. No.: (304) 555-8000	Home No.: (304) 555-2111
(Address)		

Henry Stone	Controller	Finance	Brennan Shipping Co.
Name	(Title)	(Occupation)	(Organization)

193 Mountain Blvd., Huntington, WV	Bus. No.: (304) 555-1119	Home No.: (304) 555-8710
(Address)		

I hereby certify that all statements made in this application (and accompanying résumé, if any) are true and complete. I understand that any false or misleading statement on this application constitutes sufficient grounds for dismissal, if hired. I further certify that I may lawfully be employed in this country and, if employed, will provide required documentation to verify identity and employment eligibility. In addition, in making this application for employment, I understand that the Company may investigate my employment and educational records. I hereby authorize my current and/or former employer(s) and school(s) to furnish the information requested by the Palmero Maintenance Company.

Signature of Applicant **Cheryl Crowson**

Date **June 10, 20--**

Over the Line

Wells Fargo had to pay over \$12 million to 6,255 unsuccessful job applicants due to background check violations. The lead plaintiff in the case stated that Wells Fargo ran an employment-purposed consumer report on him without telling him about the report, nor did the bank give him a copy of the report after being rejected for the job.⁶

Testing applicants can also be an area fraught with legal ramifications. Aptitude and psychological testings are unlawful unless results can be related to job performance. The use of online personality tests has surged in the past decade. These tests are used to assess the personality, skills, cognitive abilities, and other traits of 60 to 70 percent of prospective workers in the United States. These types of tests must be approved by the EEOC. Lie detector tests are strictly illegal.

With regard to drug testing, employers must consult their state's laws. Close to one-half of the states have laws covering this type of testing. It can be used in a limited number of situations or in a narrow range of job categories.

Asking an applicant's age or date of birth may tend to deter the older worker. Thus, if an application form calls for such information, a statement should appear on that form notifying the applicant that the ADEA prohibits discrimination on the basis of age with respect to individuals who are at least 40. Questions on the application and during the interview process should be used only to determine the applicant's ability to do the job.

ON THE JOB

In 2018, in a study of 10 million workplace drug tests, 4.4 percent of U.S. workers tested positive for marijuana. This was the highest level since 2004.



Some of the safeguards to prevent lawsuits would be:

- Accept applications almost exclusively online.
- Have someone not involved in the interview process review applications.
- Screen applications with computer software that looks for experience, education, and training characteristics.⁷

Another recent development that will affect the job interviewing process concerns past salary information. In an effort to ensure pay equality for women, Massachusetts was the first state to require employers to extend a formal job offer before probing the salary or benefit histories of the applicants. With a number of states expected to follow, eventually Congress could pass a law that will apply to all states.

⁶"Employment Law," *HR Specialist*, April 2016, p. 6.

⁷"From the Courts," *The HR Law Weekly*, 2018 Special Education, p. 3.

The final part of the application form should be a statement affirming the employer's right to:

- Verify the information on the application.
- Terminate the employee for providing false information on the application or during the interview process.
- Obtain authorization for any planned credit or background checks.

The application should then be signed by the applicant.

Federal antidiscrimination laws require employers to keep all applications for at least one year from the date of hiring decision, even those from unqualified candidates.

Reference Inquiry

Before employing an applicant, a company may check some of the references given on the application. Many businesses use a standard **reference inquiry form**, which can be mailed or e-mailed to the person or company given as a reference. Other companies prefer a telephone reference check because they feel that a more frank opinion of the candidate is received over the telephone. Some companies prefer not to check on personal references given by the job applicant, since these tend to be less objective than business references (e.g., prior employers).

Today, any type of reference checking has taken on new meaning—expensive litigation. In most cases, respondents to these inquiries will verify dates of employment and job titles only, with no information on former employees' work habits. To reduce the increasing number of "failure-to-warn" lawsuits, a number of states have passed laws providing protection from liability to employers who want to provide references. Recent court decisions have held the reference process to be privileged.⁸ Some companies have also made an "Employment Reference Release" part of the employment application.

Hiring Notice

After the successful applicant is notified of employment and the starting date, time, and to whom to report, a **hiring notice** is sent to the Payroll Department so that the new employee can be added properly to the payroll. A hiring notice, such as that shown in Figure 1.6, on page 1-22, usually gives the name, address, and telephone number of the new employee, the department in which employed, the starting date, the rate of pay, and any other information pertaining to deductions that are to be made from the employee's wages.

Employee History Record

Although many businesses keep no personnel records other than the application, a more detailed record is needed to provide a continuous record of the relationship between the employer and the employee. The **employee history record** is such a record and, in addition to providing personal and other information usually found on an application, provides space to record the employee's progress, attendance, promotions, performance appraisals, and salary increases. As with most records, the individual employee must have access to his or her human resource files.

Change in Payroll Rate

The **change in payroll rate form** notifies the proper departments of a change in the employee's rate of remuneration. The change in rate may originate in the Human Resources Department or with the head of the department in which the employee works. In either event, the Payroll Department must be informed of the change for the employee so that the rate change is put into effect at the proper time and so that the records reflect the new rate. Figure 1.7, on page 1-22, shows a form that may be used for this purpose.

⁸ "HIRE AT WILL," *HR Specialist*, 2010, p. 28.

NEWS ALERT

A survey conducted by the Society for Human Resource Management found that 53 percent of employers have been subject to employment-related lawsuits. The majority of lawsuits were filed by former or current employees; only 5 percent were from prospective employees.

ON THE JOB

Jumping to a new job—an ADP study found that a 13 percent raise in salary is the turning point at which employees will change to a new job.

IRS CONNECTION

In 2019, April 16 was the day on which the average American worker's income, since the beginning of the year, equaled the tax obligations to federal, state, and local governments.

FIGURE 1.6

Hiring Notice

HIRING NOTICE				NO. 220
SOCIAL SECURITY NO. 000 - 00 - 6357				
				DATE June 28, 20--
NAME Cheryl Crowson		CLOCK NO. 418		
ADDRESS 1630 West End Ave., Huntington, WV		ZIP 25703	PHONE NO. 555-1618	
OCCUPATION Payroll Specialist		DEPT. Accounting	GROUP NO. --	
STARTING DATE July 1, 20--	TIME 8:00	A.M. P.M.	RATE \$48,000 yr.	
FILING STATUS Single		BIRTH DATE 8/1/--		
LAST EMPLOYMENT	Brennan Shipping Co.		LOCATION Huntington, WV	
	DATE LEFT June 30, 20--		REASON Advancement	
NO. OF WITHHOLDING ALLOWANCES N/A				
IN EMERGENCY NOTIFY Robert Crowson		PHONE NO. 555-5136		
EMPLOYEE'S SIGNATURE IN FULL <i>Cheryl Crowson</i>				
SUPERVISOR'S SIGNATURE <i>Margaret T. Johnson</i>				
EMPLOYMENT DEPARTMENT				
ORIGINAL TO PAYROLL DEPT. DUPLICATE RETAINED BY HUMAN RESOURCES DEPT.				

FIGURE 1.7

Change in Status Form

CHANGE OF STATUS				
Please enter the following change(s) as of January 1, 20 --				
Name Cheryl Crowson		Clock or Payroll No. 418	Soc. Sec. Number 000-00-6357	
FROM				REASON FOR CHANGE:
Job	Dept.	Shift	Rate	<input type="checkbox"/> Hired <input type="checkbox"/> Re-hired <input checked="" type="checkbox"/> Promotion <input type="checkbox"/> Demotion <input type="checkbox"/> Transfer <input type="checkbox"/> Merit Increase <input type="checkbox"/> Leave of Absence to _____ Date
Payroll Specialist	Acct.	—	\$48,000	
TO				<input type="checkbox"/> Length of Serv. Increase <input type="checkbox"/> Re-eval. of Existing Job <input type="checkbox"/> Resignation <input type="checkbox"/> Retirement <input type="checkbox"/> Layoff <input type="checkbox"/> Discharge
Job	Dept.	Shift	Rate	
Accounting Analyst	Acct.	—	\$51,500	
Other reason or explanation: _____				

AUTHORIZED BY <i>Margaret T. Johnson</i> APPROVED BY <i>E. J. Dunn</i>				
Prepare in triplicate: (1) Human Resources (2) Payroll (3) Employee's Department				

Terminating an Employee

If an employee has an employee contract or if promises were made to the employee, termination can only be done with “good cause.” This means the firing must be based on reasons related to business needs and goals. An “at-will” employee can be discharged for any reason as long as it is not a discriminatory reason, even if the employee just does not work well together with the staff. In cases where the company has made past mistakes in the handling of the employee, it would be wise to consult a lawyer before making the final decision. The lawyer can check all the angles in order to protect the company from lawsuit liability.



Recordkeeping System

Whether the system is paper-based or computer-based or records in the cloud, it is advantageous to have four separate sets of records for each employee:

- Personnel file—basic information (e.g., name, address, etc.).
- Payroll file—salary and benefits.
- Medical file—insurance and private medical data.
- I-9 file—copies of the forms and the appropriate documents.⁹

Employee Access—Personnel Files

Even though personnel files are the property of the employer, employees may have the right to view and receive a copy of their own files. Even though no federal law guarantees it, more than half of the states allow current employees access to their records.

Even with this right, some documents are considered confidential, and employers should not allow employees to view anything that would be considered an invasion of privacy (e.g., reference letters, investigative notes, etc.). Before granting access to personnel files, the payroll professional should check all applicable state laws and their own company's written policy.

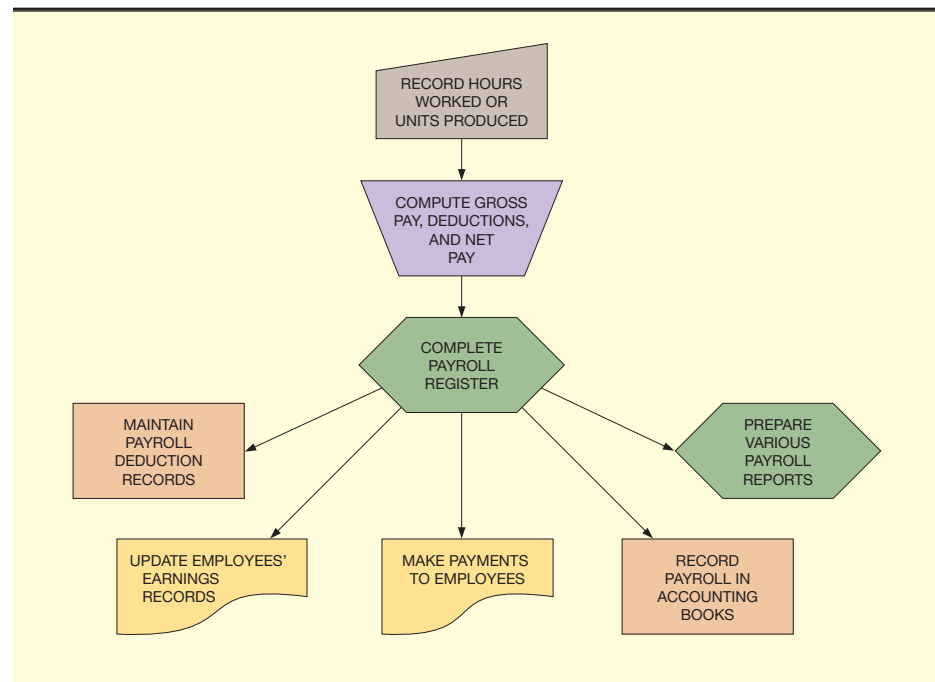
Payroll Accounting System

A **payroll accounting system** embodies all those procedures and methods related to the disbursement of pay to employees. A typical payroll accounting system includes the procedures shown in Figure 1.8, on page 1-24. The nature of the payroll records depends to a great extent on the size of the workforce and the degree to which the recordkeeping is automated. This course describes and illustrates manual payroll accounting systems. Appendix A describes a computerized payroll accounting system using Excel. In most payroll systems—manual or automated—the payroll register and the employee's earnings record are the two basic records that are utilized.

ON THE JOB

Payroll schemes account for almost 10 percent of all reported business frauds. Companies become most vulnerable when employees have access to check-writing software and hardware and when outsiders have access to company checks that are distributed to employees.

⁹“Nuts & Bolts,” *HR Specialist: Employment Law*, December 2012, p. 7.

FIGURE 1.8**Procedures in a Payroll Accounting System****LO 5**

Identify the *payroll register* and the *employee's earnings record*.

Payroll Register

The **payroll register** is a multicolumn form used to assemble and summarize the data needed at the end of each payroll period. It provides a detailed listing of a company's complete payroll for that particular pay period. Thus, the payroll register lists all the employees who earned remuneration, the amount of remuneration, the deductions, and the net amount paid. The information provided in the payroll register is used primarily to meet the requirements of the Fair Labor Standards Act. However, the register also provides information for recording the payroll entries and for preparing reports required by other federal, state, and local laws. Figure 1.9 shows one form of payroll register. Another form, used in the Continuing Payroll Problem at the end of Chapters 2 through 6, is shown in the fold-out at the back of this book.

FIGURE 1.9**Payroll Register**

TELL ME MORE

PAYROLL REGISTERFOR WEEK ENDING **January 19** 20 --

No.	Name	Total Hours Worked	Regular Earnings			Overtime Earnings			Total Earnings	Deductions				Net Paid	
			Hrs.	Rate	Amount	Hrs.	Rate	Amount		OASDI Tax	HI Tax	Fed. Income Tax	State Income Tax	Check No.	Amount
1	403 Springs, Carl A.	40	40	10.75	430.00				430.00	26.66	6.24	20.00	15.00	504	362.10
2	409 Wiegand, Sue T.	42	40	10.50	420.00	2	15.75	31.50	451.50	27.99	6.55	0.00	13.00	505	403.96
3	412 O'Neill, John B.	38	38	11.10	421.80				421.80	26.15	6.12	0.00	13.00	506	376.53
4	413 Bass, Marie S.	44	40	10.80	432.00	4	16.20	64.80	496.80	30.80	7.20	27.00	20.00	507	411.80
5	418 Crowson, Cheryl	40	40	S	990.38				990.38	61.40	14.36	87.00	46.00	508	781.62
47	Totals				9,895.75			917.20	10,812.95	670.40	156.79	2,008.00	542.00		7,435.76

Employee’s Earnings Record

In addition to the information contained in the payroll register, businesses must provide more complete information about the accumulated earnings of each employee. For that reason, it is necessary to keep a separate payroll record on each employee—the **employee’s earnings record**. Each payday, after the information has been recorded in the payroll register, the information for each employee is transferred, or posted, to the employee’s earnings record. The employee’s earnings record provides the information needed to prepare periodic reports required by the withholding tax laws, the FICA tax law, and state unemployment or disability laws. Employers also use the employee’s earnings record in preparing **Form W-2, Wage and Tax Statement**. This form shows the amount of wages paid each worker in the course of the trade or business of the employer. Figure 1.10 shows an example of the employee’s earnings record. Chapter 6 presents a more detailed discussion of the preparation and use of the payroll register and the earnings record.

ON THE JOB

The retention requirements imposed on employers by various government agencies set a limit of seven years on payroll registers and eight years on employees’ earnings records.

FIGURE 1.10

Employee’s Earnings Record



TELL ME MORE

EMPLOYEE’S EARNINGS RECORD																
Week	Week Ending	Total Hours Worked	Regular Earnings			Overtime Earnings			Total Earnings	Deductions				Net Paid		Cumulative Earnings
			Hrs.	Rate	Amount	Hrs.	Rate	Amount		OASDI Tax	HI Tax	Fed. Income Tax	State Income Tax	Check No.	Amount	
1	1/5	40	40	\$	990.38				990.38	61.40	14.36	87.00	46.00	419	781.62	990.38
2	1/12	42	40	\$	990.38	2	37.14	74.28	1,064.66	66.01	15.44	101.00	53.00	463	829.21	2,055.04
3	1/19	40	40	\$	990.38				990.38	61.40	14.36	87.00	46.00	508	781.62	3,045.42
Sex		Department		Occupation			State Employed		S.S.No.		Name—Last First Middle					No. W/H Allow.
F	M	Accounting		Accounting Analyst (A)			West Virginia		000-00-6357		Crowson, Cheryl					N/A
✓																Marital Status S

Paycheck

When employees are paid by check, a check is written for each worker, using as the amount of net pay that figure appearing in the Net Paid column of the payroll register. Most paychecks, such as that depicted in Figure 1.11, on page 1-26, carry a stub, or voucher, that shows the earnings and deductions. Paying workers in cash, by check, by means of electronic transfer, or by pay cards is discussed in Chapter 6.

Many states (but not the FLSA) have laws that affect the frequency of wage payments. In Connecticut, for example, employees must be paid on a weekly basis unless the labor commission has approved an exception.

Outsourcing Payroll

With the increased need for up-to-the-minute information concerning changes in payroll tax laws, the trend toward outsourcing payroll operations has grown stronger. This is especially true with small to midsize companies. Many businesses have found that processing payroll by using an outside payroll company is more cost effective than doing the processing in-house. Other benefits realized are increased quality, improved efficiency, and a quicker release time, all of which enable the company to concentrate on its other operations.

Basically, the payroll operations at the company’s site need only deal with the entry of new employee information and the number of hours worked by each employee. This information is sent to the payroll processing company

ON THE JOB

Surveys have found that 50 percent of mid-market companies (those with 500–4,999 employees) outsource their payrolls.

FIGURE 1.11

Paycheck with Stub Showing Current and Year-to-Date Earnings and Deductions

REGULAR HOURS	O.T.B. HOURS	REGULAR EARNINGS	O.T.B. EARNINGS	GROSS EARNINGS	OASDI	HI	FIT	SIT
40		990.38		990.38	61.40	14.36	87.00	46.00

DEDUCTIONS			
1. MISC.	5. SPECIAL INSURANCE	9. TOOLS	
2. BONDS	6. WELFARE FUND	10. RELIEF ASSOC.	
3. CREDIT UNION	7. ADVANCES	11. SHOES	
4. GROUP INSURANCE	8. UNIFORMS	12.	

CLOCK NO.	RATE	PERIOD ENDING	GROSS EARNINGS	OASDI	HI	FIT	SIT
418	S	1 19	3,045.42	188.81	44.16	275.00	145.00

YEAR TO DATE			
781.62			

CODE	DEDUCTIONS
	781.62
NET PAY ↑	

RETAIN THIS STUB
IT IS A STATEMENT OF YOUR
EARNINGS AND DEDUCTIONS

Palmero Maintenance

CLOCK NO. 418 *Palmero Maintenance* DATE January 19, 20 -- **69-21 513**

Huntington, WV

No. 508

PAYROLL ACCOUNT

PAY TO THE ORDER OF Cheryl Crowson **781.62**

DOLLARS	CENTS
781	62

the 1st national bank
Huntington, WV

BY S. Hollis Stevenson

⑆051300212⑆ 6139'''

electronically. The input is then processed by the outside firm. Once the processing is completed, the output package (paychecks, payroll, and management reports) is returned to the company.

These third-party payroll arrangements can range from just the cutting of paychecks and filing of tax returns to handling all aspects of employment from the hiring through the firing process.

Leading companies in the industry, such as ADP,¹⁰ will custom-make a comprehensive and integrated program that will meet the needs of each individual business at a cost that many businesses find affordable.

When outsourcing payroll, in order to reduce the risk of unpaid payroll taxes, the following steps should be followed:

- Hire only bonded service bureaus.
- Do not allow the service bureau to sign tax returns.
- Do not allow tax correspondence to be sent to the service bureau.
- Request regular IRS transcripts of the company accounts.¹¹


10 The ADP Logo is a registered trademark of ADP (Automatic Data Processing) of North America, Inc.

11 "Outsourcing Your Payroll May Not Be a Good Idea, After All" *Payroll Legal Alert*, June 2012, p. 1.

KEY TERMS

applicable large employer (p. 1-13)	human resources system (p. 1-15)
application form (p. 1-17)	income tax (p. 1-4)
change in payroll rate form (p. 1-21)	investigative consumer report (p. 1-17)
disability benefits (p. 1-14)	payroll accounting system (p. 1-23)
employee history record (p. 1-21)	payroll register (p. 1-24)
employee's earnings record (p. 1-25)	pre-hire inquiries (p. 1-17)
executive orders (p. 1-7)	reference inquiry form (p. 1-21)
fair employment practices (p. 1-5)	requisition for personnel (p. 1-16)
Form I-9, Employment Eligibility Verification (p. 1-8)	small employer (p. 1-13)
Form W-2, Wage and Tax Statement (p. 1-25)	vesting (p. 1-12)
hiring notice (p. 1-21)	workers' compensation insurance (p. 1-14)

KEY POINTS SUMMARY

Learning Objectives	Key Points	Problem Sets A & B
L01 Identify the various laws that affect employers in their payroll operations.	<ul style="list-style-type: none"> Fair Labor Standards Act—minimum wage and overtime. Federal Insurance Contributions Act—social security taxes on employers and employees. Income Tax Withholding Laws—deductions from employees' pays for federal and state income taxes. Unemployment Tax Acts—federal tax on employers to pay administrative costs and state tax on employers to cover benefits. 	N/A
L02 Examine the recordkeeping requirements of these laws.	<ul style="list-style-type: none"> No specific forms are mandated, but information to be collected and retention periods are. Fair employment laws on the federal and state levels deal with discrimination on the basis of age, race, color, religion, gender, or national origin. Laws requiring verification of employment eligibility of new hires. 	N/A
L03 Describe the employment procedures generally followed in a Human Resources Department.	<ul style="list-style-type: none"> From the request for a new employee to applications and interviews, to administering tests, to checking references, to notifying payroll. 	N/A
L04 Identify the various personnel records used by businesses and the type of information shown on each form.	<ul style="list-style-type: none"> Application form is used by most companies to get personal information, educational background, experience records, and references on each applicant. Order forms that may be used—hiring notice, history record, change in payroll note. 	N/A
L05 Identify the <i>payroll register</i> and the <i>employee's earnings record</i> .  TELL ME MORE	<ul style="list-style-type: none"> Payroll register is a list of all employees for each pay period showing their gross pay, deductions, and net pay. Employee's earnings record is a separate record for each employee showing the same information as the payroll register; used to prepare W-2s. 	N/A

MATCHING QUIZ

- | | |
|---|--|
| _____ 1. Employee's earnings record | A. Also known as the Federal Wage and Hour Law. |
| _____ 2. Payroll register | B. Record used in preparing employee's W-2. |
| _____ 3. Executive orders | C. Protection against losses due to work-related injuries. |
| _____ 4. Fair Labor Standards Act | D. Multicolumn form used to summarize data needed each pay date. |
| _____ 5. Immigration Reform and Control Act | E. Highest-paid 10 percent of workforce can be exempted. |
| _____ 6. Unemployment insurance taxes | F. Antidiscrimination orders for employers with contracts involving federal funds. |
| _____ 7. Vesting | G. Applicable large employers (ALE). |
| _____ 8. Workers' compensation insurance | H. Form I-9 to be completed by all new employees. |
| _____ 9. Family and Medical Leave Act | I. Levied by both federal and state governments. |
| _____ 10. Affordable Care Act | J. Conveys to employees the right to share in a retirement fund. |

QUESTIONS FOR REVIEW

- Which act sets the minimum wage, and what is the current wage rate?
- Under the FLSA, what information concerning employees' wages earned must be maintained by the employer?
- Who pays the social security taxes that are levied by the Federal Insurance Contributions Act?
- How are the funds used which are provided by FUTA and SUTA?
- What types of unfair employment practices are prohibited by the Civil Rights Act of 1964 as amended?
- What is the purpose of the Age Discrimination in Employment Act (ADEA)?
- Are there any exceptions to the protection afforded older workers by the Age Discrimination in Employment Act?
- Who is covered by the Walsh-Healey Public Contracts Act?
- Under the Family and Medical Leave Act, what is the maximum number of weeks of unpaid leave that a covered employer is required to offer an employee whose spouse is seriously ill?
- What is the primary purpose of the Employee Retirement Income Security Act (ERISA)?
- Explain the concept of vesting.
- Under ERISA, if requested in writing, what information must the administrator of the pension fund supply to the participants?
- Under the Affordable Care Act, which employers are required to provide insurance coverage for all full-time employees and their dependents?
- Summarize the procedure that may be followed by the Human Resources Department in hiring new employees.
- What information is commonly provided by a jobseeker on the application for employment form?
- What is the significance of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act in the employer's use of pre-hire inquiries?
- What obligations are imposed upon the employer by the Fair Credit Reporting Act of 1968?
- What procedures are usually included in a typical payroll accounting system?
- What two basic records are generated in most payroll accounting systems?
- What uses are made of the information shown in the employee's earnings record?

QUESTIONS FOR DISCUSSION

1. What personnel records would you suggest for a small retailer with three employees?
2. What kind of problem can be encountered when requesting references from previous employers of job applicants?
3. In staffing their offices, some firms encourage in-house referrals (recommendations of their present employees). What are some possible objections to this practice as a means of obtaining job applicants? What advantages may be realized by the firm that uses in-house referrals?
4. The main office of a large bank has an annual turnover of 500 office workers. As an employment officer of this bank, discuss the sources you would use in obtaining replacement employees.
5. Among the questions asked on the application for employment form of Horner Company are the following:
 - a. What is the name of your church, and what religious holidays do you observe?
 - b. Where is your birthplace?
 - c. Are you a citizen of the United States?
 - d. What foreign languages can you read, write, or speak fluently?In view of federal and state civil rights laws, do you believe that Horner Company is acting legally or illegally in asking each of the questions listed above?

CASE PROBLEM**C1. Paychecks Kept Coming. LO 3.**

Ken, a salaried employee, was terminated from his company in April of this year. Business had been slow since the beginning of the year, and each of the operating plants had laid off workers.

Ken's dismissal was processed through the Human Resources Department, but the information was not relayed to the corporate payroll office.

As had been the policy, checks for workers at remote sites were mailed to the employees. The mailing of Ken's checks continued for the next four weekly paydays. It wasn't until the monthly payroll reports were sent to Ken's supervisor that the error was detected.

Ken refused to return the four extra checks. What actions should the company take?¹²

¹² Reprinted with permission from *Payroll Guide Newsletter*. Volume 60, No. 21, Copyright © 2001 by Research Institute of America, 395 Hudson Street, New York, NY 10014. All rights reserved.

Computing Wages and Salaries

CHAPTER 2

So you are working at a pizza shop. Do you know if you are an employee? Are you paid a salary, or are you paid per delivery or by the hour? What about tips? How about a mileage allowance?

What's your work schedule? Do you work weekends or nights? Do you normally work overtime?

You should learn about the wonderful world of the FLSA.

LEARNING OBJECTIVES

After studying this chapter, you should be able to:

- 1 Explain the major provisions of the Fair Labor Standards Act.
- 2 Define *hours worked*.
- 3 Describe the main types of records used to collect payroll data.
- 4 Calculate regular and overtime pay.
- 5 Identify distinctive compensation plans.

This chapter examines the major provisions of the Fair Labor Standards Act, how to determine hours worked by employees, commonly used methods to record time worked, and the major methods of computing salaries and wages. Tracing its origin back to the 1930s, the Fair Labor Standards Act is the most encompassing of all the labor laws. However, it is also the one most violated.



The Fair Labor Standards Act

The Fair Labor Standards Act (FLSA), commonly known as the Federal Wage and Hour Law, contains provisions and standards concerning minimum wages, equal pay for equal work regardless of sex, overtime pay, recordkeeping, and child labor. The Wage and Hour Division of the U.S. Department of Labor (DOL) administers the act.

Coverage

The FLSA provides for two bases of coverage—enterprise coverage and individual employee coverage.

Enterprise Coverage

Enterprise coverage includes all employees of an enterprise if:

1. At least two employees engage in interstate commerce or produce goods for interstate commerce. Interstate commerce refers to the trade, transportation, or communication among several states or between a state and any place outside that state. The law also covers employees if they handle, sell, or otherwise work on goods or materials that have been moved in or produced for interstate commerce, and
2. The business has annual gross sales of at least \$500,000.

LO 1

Explain the major provisions of the Fair Labor Standards Act.

ON THE JOB

A National Call Center has been established by the Department of Labor to answer employees' and employers' questions on a range of employment issues.

The toll-free number is 1-866-4-USA-DOL.

ON THE NET

<http://www.dol.gov/>

**U.S. Department of Labor
Employment Standards
Administration** homepage.
This site contains various
sections of code, such as
affirmative action and
workers' compensation.
To find the most useful
information, choose the ESA
program that interests you.

Coverage extends, *without regard to annual sales volume*, to those who operate:

1. A hospital.
2. A nursing home.
3. An institution for the mentally ill.
4. A school for mentally or physically handicapped or gifted children.
5. A preschool, elementary, or secondary school.
6. An institution of higher education.
7. A public agency.

The enterprise coverage under the FLSA does not apply to family establishments, often referred to as “mom and pop stores.” Thus, if the only regular employees of an establishment include the owner, parent, spouse, child, or other immediate family members, the establishment is exempt from FLSA coverage.

Individual Employee Coverage

Under **individual employee coverage**, the FLSA covers a worker if the employee either engages in interstate commerce or produces goods for such commerce. Coverage also includes employment in a fringe occupation closely related and directly essential to the production of goods for interstate commerce. Coverage depends on the activities of the individual employee and not on the work of fellow employees, the nature of the employer's business, or the character of the industry as a whole. Thus, even though a business does not meet the enterprise coverage test, it must pay FLSA wages to those workers eligible for individual coverage.

Glenn Morris works for a small manufacturing firm that has an annual sales volume of \$370,000. Although the firm does not meet the \$500,000 volume-of-sales requirement for enterprise coverage, Morris is *individually* covered since he operates machinery used to produce goods for interstate commerce.

Employer

The FLSA defines an employer as “any person acting directly or indirectly in the interest of an employer” in relation to an employee. In order to protect employees, courts have defined “employers” in the broadest sense. Co-owners who control the day-to-day operations of the business are employers who are individually liable for violations of the law.

Employee

An individual is an **employee** if he or she performs services in a covered employment. As long as the common-law relationship of employer and employee exists and the employment is not exempt from the provisions of the law, both are covered and must observe its provisions. No differentiation is made between regular, temporary, substitute, or part-time workers.

A **common-law relationship** of employer and employee exists when the employer has the right to control both what work will be done and how it will be done. How the relationship is labeled is immaterial; it is the substance of the relationship that governs the worker's status.

To determine if a worker may be classified as an employee and if the employer has the right to control, the U.S. Department of Labor has reinstituted an old six-factor economic reality test:

1. Extent to which the services are an integral part of the employer's business.
2. Permanency of the relationship between employer and worker.
3. Investment in facilities and equipment by the worker.
4. Employer's degree of control over the worker.
5. Worker's opportunity for profit and loss.
6. Amount of initiative, judgment, or foresight required for the worker's success.

IRS CONNECTION

If you want the IRS to determine whether a worker is an employee, file **Form SS-8, Determination of Employee Work Status** for purposes of Federal Employment Taxes and Income Tax Withholding. Over 90 percent of these filed forms were determined to be for employees.

Over the Line

In a case involving Risinger Bros. Transfer, its truck drivers sued the firm claiming Risinger purposely misclassified them as independent contractors. The federal court ruled in favor of the trucking company based on these facts: truckers controlled the work and how it was done; they could hire others to do the driving; they could haul freight for other companies; they were paid by the mile and could make a profit.

Employees of a Corporation

Managers, superintendents, supervisors, department heads, and other executives of a corporation are considered employees under the FICA tax law. All officers, such as the president, vice president, secretary, and treasurer, are also employees of the corporation. Their salaries are taxable the same as the wages paid to other employees. A *director of a corporation* who performs no services other than attending and participating in meetings of the board of directors is not an employee.

Partnerships

Partners generally are not employees of the partnership. In some cases, however, a partnership may operate as an association that may be classified as a corporation. In such situations, any partner who renders services similar to those of corporate officers would be an employee.

Domestics

Domestic workers also must be paid the minimum wage if:

1. They perform services in one or more homes for a total of eight hours or more in any workweek, *or if*
2. They earn wages of at least \$2,200 from an employer in a calendar year.

Domestic service consists of services of a household nature performed in or about a private home of the person who employs the domestic. Some typical domestics include cooks, butlers, maids, caretakers, gardeners, and chauffeurs. The term also includes a baby sitter employed on other than a casual basis, such as a person who sits for a child five days a week. If the domestics do not live in the household, they must be paid overtime compensation as well as the minimum wage. However, live-in domestics do not have to be paid overtime. A casual baby sitter (one employed on an irregular or intermittent basis) or a companion for the aged or infirmed is not covered.

Direct care workers provide essential home care assistance to the elderly and people with injuries, illnesses, or disabilities. These workers if employed directly by a family or individual are not covered unless they are performing medically related duties or are providing more than a limited amount of care in addition to fellowship and protection. Direct care workers, employed by third-party employers, started to receive minimum wage and overtime coverage in 2015.

Statutory Employees

Workers who qualify as independent contractors under common law, but are taxed as employees for social security, are statutory employees. This status applies to agent or commission drivers, industrial home workers, full-time life insurance agents, and full-time traveling or city salespeople.

Statutory Nonemployees

There are two categories of statutory nonemployees—direct sellers and licensed real estate agents. For federal tax purposes, they are considered to be self-employed as long as their earnings are based on the amount of sales and their services are performed under a written contract stating that they will not be treated as employees for federal tax purposes.



Lisa F. Young/Shutterstock.com

ON THE JOB

Today, nearly 25 percent of the workforce is made up of temporary workers, consultants, and independent contractors.

Interns

In the public and nonprofit sectors, volunteer interns who do not expect compensation are generally exempt from FLSA requirements. Interns in the for-profit sector may be exempt from the minimum wage and overtime requirements of the FLSA when they receive training for their own educational benefit.

Wages

Wages include the remuneration or compensation of paid employees. The terms wages and salaries are commonly used interchangeably. However, **wage** usually refers to remuneration paid on an hourly or a piecework basis. **Salary** usually refers to the remuneration paid on a weekly, **biweekly** (every two weeks), **semimonthly** (twice a month), monthly, or yearly basis.

ON THE JOB

In 2019, over 59 percent of all wage and salary workers were paid hourly rates. Out of those, 1.9 percent were paid at or below the minimum wage, with half of those workers under the age of 25.

NEWS ALERT

The country with the highest minimum wage is Luxembourg, where the minimum hourly wage is set at the equivalent of \$13.78 in U.S. dollars.

The Minimum Wage

The FLSA of 1938 established a minimum wage of 25 cents per hour for a straight-time workweek of 44 hours. With the objective of improving the purchasing power of covered workers, succeeding amendments to the FLSA increased the minimum hourly rate and reduced the workweek. The Fair Minimum Wage Act of 2007 increased the minimum wage to \$7.25 beginning on July 24, 2009.

Included in the regular rate of pay is all remuneration for employment paid to or on behalf of the employee. Some examples are:

1. Commission payments.
2. Earned bonuses (**nondiscretionary bonus**—which is a bonus normally based on hours worked, units produced, production efficiency, or work quality).
3. Severance pay.
4. On-call pay.
5. Shift or weekend differentials.

A **discretionary bonus**, which is a bonus not agreed upon, announced, or promised before payment, is not included in an employee's regular rate of pay. The employer retains discretion both to the granting and to the amount of the bonus until close to the end of the period for which the bonus is paid (discussion of nondiscretionary bonus, page 2-30).

The law also allows employers to credit the reasonable cost of housing, meals, and transportation to work that they provide towards payment of the minimum wage. To qualify, these facility credits must be furnished for the employee's benefit and must be accepted voluntarily by the employee.

Some other payments are not included in the regular rate of pay. Examples are:

1. Gifts made as a reward for service.
2. Payments for a bona fide profit-sharing or savings plan.
3. Payments for periods when no work is performed—vacations, holidays, sick days, or jury duty days.
4. Payments reported as part of a guaranteed minimum number of hours paid that are more than the actual hours worked.
5. Allowances for vehicles, tools, and uniforms that are considered an offset of employee expenses.
6. Call back pay that is infrequent and sporadic.
7. Certain sign-in and longevity bonuses.
8. Cost of providing certain parking benefits, wellness programs, gym access, employee discounts on retail goods or services, and certain tuition benefits.

Paying Less Than the Minimum Wage

Under certain conditions, wages lower than the minimum wage may be paid to some employees.

1. Tipped employees (see page 2-6).
2. A training wage allows employers to pay \$4.25 per hour to newly hired employees under 20 years of age (opportunity wage). This only applies to the first 90 consecutive calendar days of employment.
3. Retail or service establishments and farms may employ full-time students at 85 percent of the minimum wage (\$6.1625 per hour, government rounds to \$6.17 in favor of the employee).
4. Institutions of higher education may employ their own full-time students at 85 percent of the minimum wage.
5. Student-learners may be employed at 75 percent of the minimum wage if they are participating in a bona fide vocational training program conducted by an accredited school (\$5.44 per hour).
6. Firms whose principal business is the delivery of letters and messages may employ messengers at not less than 95 percent of the minimum wage.
7. Persons whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at special minimum wage rates. However, a certificate authorizing employment at such rates must first be obtained from the Department of Labor's Wage and Hour Division.

NEWS ALERT

The Department of Labor has ruled that undocumented immigrants must also be paid at least the minimum wage and overtime as stipulated in the FLSA.

Jim Droghan, a full-time student, works at the Dollar Store. This week he worked 30 hours and earned \$185.10. Retail establishments can pay full-time students less than the minimum wage (85 percent).

$$\begin{aligned} \$7.25 \times 85\% &= \$6.17/\text{hour} \\ \$6.17 \times 30 \text{ hours} &= \$185.10 \end{aligned}$$

EXAMPLE 2-1

Paying More Than the Minimum Wage

In some cases, wages higher than the minimum must be paid to some employees.

1. Employees of federal contractors must be paid at least \$10.80 per hour (and be provided 56 hours of paid sick leave per year). The rate will be increased every year by the Secretary of Labor based on increases in the Consumer Price Index.
2. Employees in states that have a higher minimum wage rate than the federal rate must be paid the higher rate.

ON THE JOB

By January of 2020, the average hourly earnings of workers in the United States was \$28.44, which represented an average annualized growth rate of 3.1 percent.

SELF-STUDY QUIZ 2-1

Indicate which of the following statements regarding the Fair Labor Standards Act are false.

- _____ 1. Under the FLSA, wages include sales commissions and bonuses paid for employee performance.
- _____ 2. Direct care workers must always be paid overtime compensation in addition to the minimum wage.
- _____ 3. A son working for his parents in a family-owned business is not covered under the FLSA.
- _____ 4. Individual employee coverage under the FLSA applies only if fellow employees are engaged in similar activities.
- _____ 5. A college may pay its own full-time students less than the minimum wage.

Note: Answers to Self-Study Quizzes are on page 2-31.

NEWS ALERT

In 2007, Maryland became the first state to have a living wage law (covers contractors and subcontractors with a state contract for services at \$100,000 or more).

Depending on the area of the state, in 2020 the wage rates ranged from \$10.70 to \$14.24 per hour.

ON THE JOB

The Department of Labor has stated that if tipped employees routinely spend more than 20 percent of their time on general preparation or maintenance work, the tip credit may not be claimed for the time spent performing those tasks.

State Laws

All states except for Alabama, Louisiana, Mississippi, South Carolina, and Tennessee have minimum wage and overtime rules that apply both to employees covered by the FLSA and to those not covered. Some states have created multiple rates based on region, employer size, and for urban versus nonurban counties. In Oregon, it is \$11.50 per hour in nonurban counties, \$12.00 in standard counties, and \$13.25 per hour in Portland's service district. The FLSA requires payment of the higher wage standard if it is more than the federal \$7.25 per hour.

Paying a "Living Wage"

Over 100 cities have enacted local ordinances to require employers who do business with the government to pay a "living wage" to their low-wage workers. The movement, started by local advocates, grew out of the failure to keep the national minimum wage on pace with the needs of the working poor. Recently, some living wage laws have been passed that also include private industry doing business within the cities' jurisdiction. In Miami, all city workers and workers for companies that have contracts (over \$100,000) with the city after October 1, 1986, must be paid \$13.88 per hour with health insurance coverage or \$17.45 per hour without coverage. In Santa Fe, New Mexico, the living wage rate is set at \$12.10 per hour with the value of any employer-provided health benefits credited against this minimum.

Tips

A **tip** (to ensure promptness) is a gift or gratuity given by a customer in recognition of some service performed for him or her. A **tipped employee** is one who engages in an occupation in which tips of more than \$30 a month are customarily and regularly received. An employer may consider, within prescribed limits, the tips received by a tipped employee as part of the employee's wages. In 1996, the Small Business Job Protection Act froze the minimum cash wage required for tipped employees at \$2.13 per hour. Tips received by the employee are credited toward the remainder (\$5.12) of the total minimum wage (\$7.25 – \$2.13). The employee is required to report tips to the employer each month (if more than \$20.00). If tips received do not amount to at least \$5.12 per hour, the employer must increase the hourly rate of pay so that the hourly wage plus the equivalent hourly rate of tips received equal, at a minimum, \$7.25 per hour. In 2020, the minimum wage for tipped employees of federal contractors was set at \$7.55 per hour. Through a combination of tips and wages, these tipped employees must earn at least \$10.80 per hour.

In order to take the tip credit, employers must notify the affected employees of the minimum wage requirements and of their intention to take the tip credit. This information can be provided orally to the employees.

EXAMPLE 2-2

James Rudolph, a waiter, earns a weekly wage of \$100.00 for a 40-hour workweek and receives tips of \$100.00 each week. Even though the hourly rate paid to Rudolph ($\$100.00 \div 40 \text{ hours} = \2.50) exceeds the minimum wage rate of \$2.13, the employer must pay Rudolph an extra \$90.00 so that the tips received plus the wages paid equal the minimum wage of \$7.25 per hour.

$\$7.25 \times 40 =$	\$290.00
Weekly wage.....	(100.00)*
Tips received	(100.00)
Extra weekly pay.....	<u>\$ 90.00</u>

$$*\$100.00 + \$90.00 = \$190.00; \$190.00 \div 40 \text{ hours} = \$4.75/\text{hour}$$

All of the tips are the property of the employee and must be retained by the tipped employee unless there is a pooling of tips among the tipped employees. If employees are required to share the tips with employees not automatically tipped such as janitors, dishwashers, chefs, etc., the tip credit will be lost; however, voluntary arrangements among employees to pool tips will not eliminate the

credit. The tip must be offered by the customer free from pressure, and the amount should not be based on a dictated employer policy. If any portion of the tips is turned over to the employer, no credit is allowed.

Service charges imposed on patrons by the employer do not count toward the tip credit. The IRS has begun to classify automatic gratuities (e.g., event fees, room service charges, and bottle service charges) as service charges which are treated as wages subject to tax withholdings. This will entail more paperwork and extra cost to the employer.

An alternative tip-reporting system can be used in which the employer and the IRS determine a predetermined tip rate for the employer's various occupations. At least 75 percent of the employees must sign agreements to report tips at or above the predetermined rate. The employer is then required to report any employee violations to the IRS.

In cases of two jobs performed by one worker, the tip credit can only be applied to the job that qualifies as tipped employment.



ProStockStudio/Shutterstock.com

Karl Marx worked for the Hilton Hotel in Las Vegas as a waiter. In addition, on his days off, he worked on Hilton's maintenance crew. Hilton can only claim the tip credit against Marx's wages on his waiter job.

Over the Line

Nevada-based Caesar's Entertainment Group must pay \$175,128 in back wages and liquidated damages to 889 employees at two Indiana casinos that it operates. The casinos used deductions from employees' wages to cover the costs for individual employees' casino gaming licenses required by the Indiana Gaming Commission. These deductions brought employees' pay below \$7.25 per hour.¹

Under state laws, the states' tip credit percentage (different in each state) is applied to the federal minimum wage to calculate the actual tip credit and the resulting minimum wage required under state law. In states where the tip credit differs from the federal, employers must determine the credit and the resulting minimum wage under both federal and state law and pay their employees the higher cash wage.

SELF-STUDY QUIZ 2-2

Genna Harrison, a waitress, earns \$85.20 a week for a 40-hour workweek. During one week, Harrison received tips of \$90.

1. What hourly rate is being paid to Harrison?
\$ _____
2. How much must the employer pay Harrison in addition to her \$85.20 weekly wage?
\$ _____

Workweek

The FLSA defines a **workweek** as a fixed and regularly recurring period of 168 hours—seven consecutive 24-hour periods. The individual employee's workweek is the statutory or contract number of hours to be worked regularly during that period. The workweek may begin on any day of the week and need not coincide

ON THE JOB

Companies that accept credit cards can deduct the amount of the credit card company's administrative fee that relates to the tip from the tip amount before giving it to the employee. These tips must be paid to the employee by the next regular payday.

¹ *Payroll Currently*, February 8, 2019, Volume 27, Issue 2, p. 12.

with the calendar week. An employer may establish the same workweek for the business operations as a whole or assign different workweeks to individual workers or groups of workers.

An employer may change the day a workweek begins if intended to be a permanent change and not just to evade the overtime pay requirements of the FLSA. If, however, a union contract fixes the workweek, the employer's right to change the workweek depends upon the wording in the contract. Each workweek stands alone, and the overtime hours worked in one week may not be shifted to another workweek. Thus, each workweek is a separate unit for the purpose of computing overtime pay.

Overtime Hours and Overtime Pay

The FLSA requires overtime pay for all hours worked in excess of 40 in a workweek. The FLSA requires no overtime pay for daily hours worked in excess of any given number or for work on Saturdays, Sundays, holidays, or other special days. The law requires overtime pay to be *one and one-half times* the employee's regular hourly rate of pay, which must not be less than the statutory minimum. If the state's overtime rule is more generous than the FLSA's, the state law is followed. The payment for the overtime worked must generally be made on the regular payday for the time period in which the overtime work took place.

EXAMPLE 2-3

If an employee's regular rate of pay is \$18.40 an hour, the overtime rate must be at least $\$18.40 \times 1.5$, or \$27.60 an hour.

ON THE JOB

California defines overtime as any hours worked over 8 in one day, and 40 in a workweek, and also provides for double-time pay for hours over 12 in one day and over 8 on the seventh consecutive day worked.

With some restrictions, employees covered under the FLSA can be required by their employers to work overtime. If they refuse, they can be fired under the law. There is also no limit on the overtime that can be required. However, in these cases, the state laws may be the governing force. On the other side, employees should only work overtime if authorized in advance by a supervisor and this should be a written policy. The consequences of unauthorized overtime must be communicated to all employees. Discipline for violating this policy must be administered equally, but payment must still be made for these non-approved hours. If reprimands do not work, suspension and even termination can legally result.

If an hourly-rate employee works in pay periods of two weeks or longer, the employer can elect to give the employee 1.5 hours off for every overtime hour. However, the time off must be in the same pay period as the overtime hours worked, e.g., an employee works 44 hours the first week of a biweekly pay period; he works 34 hours in the second week and is paid for a total of 80 hours $[40 + (4 \text{ O.T.} \times 1.5) + 34]$.

In the case of *tipped employees*, the same tip credit also applies to overtime hours. The regular rate of pay for a tipped employee is the current minimum wage—\$2.13 plus \$5.12 tip credit = \$7.25/hour. Time and one-half of \$7.25 is \$10.88. Since the employer can use the same tip credit for overtime hours, the employee's overtime cash wages are \$5.76/hour ($\$10.88 - \5.12).

EXAMPLE 2-4

Alfred Sims is a tipped employee who normally works a 40-hour week and averages over \$300 in tips each week. If his employer takes the maximum tip credit against the minimum wage (\$5.12 per hour), in a week in which Alfred worked 44 hours, the restaurant would pay him:

$$\begin{array}{rcl} 40 \text{ hours} \times \$2.13 & = & \$ 85.20 \\ 4 \text{ hours} \times \$5.76 & = & \underline{23.04} \\ \text{Gross pay} & & \underline{\$108.24} \end{array}$$



TELL ME MORE

Exceptions to Overtime Hours and Overtime Pay Provisions

An exception to overtime hours and overtime pay applies to *hospital employees*. Hospitals may enter into an agreement with their employees under which a 14-day period, rather than a workweek, becomes the basis for computing

overtime pay. Employees entering such an agreement must receive overtime pay at not less than one and one-half times their regular hourly rate for hours worked in excess of 8 hours in any workday or in excess of 80 hours in a 14-day period, whichever is the greater number of overtime hours. Although employers have the option of using the normal workweek or the 14-day period, they cannot change from one method to the other arbitrarily.

Donna Maloney, a lab technician, agreed that a 14-day period would be used to figure her overtime pay. Maloney works 12 hours in one day during the period and 8 hours in each of the 9 other days worked during the period, a total of 84 hours.

Maloney is entitled to 80 hours of straight-time pay and 4 hours of overtime pay for the 14-day period.

If Maloney worked only 7 hours in each of the 9 other days during the period, or a total of 75 hours, she would be entitled to 71 hours of straight-time pay and 4 hours of overtime pay for the 14-day period.

Employees in retail or service industries are exempt from the overtime provisions as long as their regular weekly rate of pay, including commissions, is at least one and one-half times the federal minimum wage rate (\$10.88) and more than half of their pay over a monthly period comes from commissions. The overtime exemption is lost for any week in which the pay drops below \$10.88 per hour.

Minimum wage legislation also provides an exception for *employees receiving remedial education*. Under this law, employees who receive remedial education offered by their employers are permitted to work up to 10 hours overtime each week without receiving overtime compensation. The remedial training, which does not include training for a specific job, must be designed to provide reading and other basic skills at an eighth-grade level or below.

Compensatory Time Off

A state, a political subdivision of a state, or an interstate governmental agency may grant employees (not covered by a collective bargaining agreement) compensatory time off in lieu of overtime compensation. Employees working in public safety, emergency response, or seasonal activities may accumulate compensatory time off up to 480 hours. (The 480-hour limit represents 320 hours of overtime actually worked at the one and one-half overtime rate.) Employees may “bank” their hours and use them later as time off at time and one-half during the course of their employment.

Employees whose work does not include the preceding activities may bank 240 hours for compensatory time off. Upon reaching the 480- or 240-hour limit, an employee must receive either cash for additional hours of overtime worked or use some compensatory time before receiving further overtime compensation in the form of compensatory time off. Note that not all 480 or 240 hours have to be accrued before compensatory time off may be used. The FLSA also provides for the payment of cash for unused comp time when the employee terminates employment.

Exemptions from FLSA Requirements

Exempt employees (see Figure 2.1 on page 2-10) are those workers exempt from some, or all, of the FLSA requirements, such as minimum wages, equal pay, and overtime pay.

White-Collar Workers

The FLSA exempts some workers, such as executives, administrators, professional employees, highly compensated employees, computer professionals, and outside salespersons, from the minimum wage and overtime pay provisions if they satisfy certain tests.

