

Payroll Insights

Employment tax news to guide you
now and for the future

April 2026



John's fresh take: Key takeaways from the 2026 Capital Summit

KPMG sponsored PayrollOrg's 2026 annual Capital Summit in March, bringing payroll professionals and government officials to Arlington, Virginia. It was a wonderful opportunity for everyone to network, discuss hot topics, and trade 2025 year-end compliance stories.

If you missed this exciting event, here are a few highlights straight from the rule makers and enforcers:

- Internal Revenue Service (IRS) focus on the payroll industry – Derek Ganter, director of the IRS's outreach and communication, spoke about a 2027 initiative to include payroll topics in the Nationwide Forum and other predecisional processes. Ganter conceded that, "if [the IRS] had listened to tax professionals, [the IRS] probably would have gotten [employee retention credit processes] right the first time." Ganter noted that the IRS also recognizes the importance of finalizing regulations related to One Big Beautiful Bill Act (OBBBA) provisions.
- Department of Labor focus on the Payroll Audit Independent Determination (PAID) program – Andrew Rogers, the administrator of the Department of Labor's Wage and Hour Division, discussed the reinstatement of the PAID program, which is a way for an employer to self-audit for wage and hour compliance and report/correct any errors discovered. When self-corrected, the typical wage-hour violation penalties may not be assessed.
- Office of Child Support Enforcement (OCSE) streamlining reporting – Sherri Grisby, a deputy director of the OCSE, and Eileen Stack, deputy commissioner for New York's Division of Child Support Services, spoke about challenges and initiatives in employer compliance and department efficiency. The OCSE developed the Verification of Employment (VOE) form to streamline employer compliance with information requests. While every state accepts the VOE form for information collection, many states have their own form, which can cause confusion when processing at the state level. Note that the employer is responsible for submitting these forms and information to the applicable departments, not a third party.



Federal updates



Treasury and IRS propose rules for opening initial Trump accounts

On March 6, 2026, the IRS posted a news release, [IR-2026-33](#), announcing proposed regulations (91 FR 11194) related to Trump accounts provided by the OBBBA.

From an employee perspective, the proposed regulations outline the process for an individual to open a Trump account under OBBBA. The proposed regulations describe the core requirements for establishing an account, provide key definitions, and explain how an authorized individual may make the election to open an account on behalf of an eligible child. The proposed regulations also identify who will serve as the responsible party once the account has been created.

The individual who completes the election would generally serve as the responsible party for the Trump account. The beneficiary may not have legal capacity, so the responsible party may select among available investments, request a qualified rollover contribution, make certain transfers that satisfy statutory requirements, or designate a successor responsible party.

The preamble to the proposed regulations note that the Treasury Department and the IRS intend to issue guidance on Internal Revenue Code Section 128 employer contributions to Trump accounts at a later date. As a reminder, Notice 2025-68, issued in December 2025, provided the following information on Trump accounts:

- The Trump account is a type of individual retirement account (IRA), but it cannot be a SIMPLE IRA, nor can contributions come from an employer's simplified employee pension arrangement.
- Section 128 employer contributions to a Trump account of an employee or a dependent of an employee are not taxable to the employee.
- Employer contributions are limited to \$2,500 per year, subject to cost-of-living adjustments after 2027, and must be made pursuant to the rules in Section 128(c).
- When making a contribution pursuant to a Trump account contribution program, an employer must affirmatively indicate to the trustee of the Trump account that the contribution is a Section 128 employer contribution excludible from gross income of the employee.
- Trump account contribution program may be offered via salary reduction under a Section 125 cafeteria plan if the contribution is made to the Trump account of the employee's dependent but not if the contribution is made to the Trump account of the employee.

Department of Labor proposes revised federal standard for worker classification

The Department of Labor (the Department) issued a [proposed rule](#) on February 26, 2026, that would replace the current federal worker classification regulation with a revised analysis modeled largely on a framework first introduced in early 2021. If finalized, the proposal would mark a significant shift away from the more subjective approach adopted in 2024 and would reintroduce a more targeted structure for evaluating whether a worker should be treated as an employee or an independent contractor under the Fair Labor Standards Act. The Department also intends to extend the same framework to the Family and Medical Leave Act and the Migrant and Seasonal Agricultural Worker Protection Act.

Under the proposal, the central question would continue to focus on the economic reality of the relationship, specifically whether the worker is in business for themselves or is financially dependent on the organization for ongoing work. Two primary considerations are cited as illustrative of the economic reality test: the first is the level of control the organization has over how the work is performed and the second is whether the worker has a genuine opportunity to experience a profit or loss through business initiative or investment. Other factors established in prior guidance from the Department, including the level of skill involved, the expected duration of the relationship, and whether the work is part of an integrated production process, would continue to be relevant in determining worker classification but generally hold less weight than the two core considerations.

The proposal also places weight on actual day-to-day practice rather than what is described in agreements or what is possible in theory. The Department plans to reintroduce the example section from the 2021 rule, update one existing example, and add new examples that address how skill should be evaluated. In addition, the Department is seeking public comment on an alternative version of the rule that would simplify the analysis further by placing the control factor at the center of the inquiry. Although this option is not part of the primary proposal, its inclusion signals an interest in narrowing and simplifying the classification test.

For now, the 2024 regulation remains the primary guidance for purposes of private litigation. At the same time, the Department has already changed its enforcement approach. This dichotomy has created a split environment in which agency enforcement and private legal challenges may rely on different frameworks. Employers that utilize independent contractors should closely monitor the proposed rule, consider whether to submit comments, and evaluate whether their current classification strategies align with the direction indicated by the department.



California enacts new restrictions on “stay or pay” employment contract provisions

Effective for agreements entered into on or after January 1, 2026, California’s recently enacted Assembly Bill 692 (AB 692) significantly limits an employer’s ability to claw back compensation, expenses, and other payments from an employee who terminates employment.

What changed?

AB 692 prohibits most “stay or pay” or repayment arrangements that require an employee to reimburse or repay an employer if employment ends, even upon a voluntary resignation. AB 692 is broad and prevents an employer entering into a contract with a worker that:

- Requires the worker to pay an employer, training provider, or debt collector for a debt if the worker’s employment or work relationship with a specific employer terminates
- Authorizes the employer, training provider, or debt collector to resume or initiate collection of or end forbearance on a debt if the worker’s employment or work relationship with a specific employer terminates
- Imposes any penalty, fee, or cost on a worker if the worker’s employment or work relationship with a specific employer terminates.

The terms “debts” and “penalty, fee, or cost” are broad and encompass arrangements that vary from tuition costs to liquidated damages. Items often subject to claw back, such as signing bonuses and relocation expenses, are included as well. Traditional reimbursement clawback provisions—often used to protect the employer’s investment if an employee leaves within 12–24 months—may no longer be enforceable under California law for agreements entered into in 2026 or later.

Are any repayment arrangements still allowed?

AB 692 includes very narrow exceptions, which may permit repayment of certain up-front payments (such as relocation or signing bonuses) only if strict conditions are met, including:

- The agreement is entered into at the start of employment
- The repayment obligation is set out in a separate agreement, not embedded in an offer letter
- The employee is given advance notice of their right to consult legal counsel
- Repayment is prorated, interest free, and limited to a maximum two-year period
- The worker has the option to defer payment until the end of a fully served retention period without any repayment obligation
- Any separation prior to the retention period is either solely at the election of the employee or by the employer for misconduct (as defined in Section 1256 of the Unemployment Insurance Code).

Slightly different provisions apply to agreements involving the repayment of tuition expenses in connection with a transferable credential (e.g., an academic degree). Specifically:

- The contract is offered separately from any contract for employment
- The contract does not require obtaining the transferable credential as a condition of employment

- The contract specifies the repayment amount before the worker agrees to the contract, and the repayment amount does not exceed the cost to the employer of the transferable credential received by the worker
- The contract provides for a prorated repayment amount during any required employment period that is proportional to the total repayment amount and the length of the required employment period and does not require an accelerated payment schedule if the worker separates from the employment
- The contract does not require repayment to the employer by the worker if the worker is terminated, except if the worker is terminated for misconduct.

The definition of “transferable credential” includes a requirement that the “degree that is offered by a third-party institution that is accredited and authorized to operate in the state”; this may limit repayment this exception to tuition expenses for California institutions.

What should employers be doing now?

With the enactment of AB 692, employers with California exposure may want to consider:

- Reviewing compensation arrangements, standardized employment agreements, and benefit and expense reimbursement policies to identify repayment or clawback language
- Separating California practices from national templates where needed
- Coordinating HR, Legal, Tax, and Employee Mobility teams to ensure alignment
- Reassessing cost assumptions.

Importantly, the law is not retroactive—agreements entered into before January 1, 2026, are generally not affected—but it applies broadly to new hires and future transfers into California.

Employers who also operate in the state of New York should make sure that any agreements or changes do not run afoul of New York’s “Trapped at Work Act,” which becomes effective later this year and also restricts “stay or pay” arrangements (discussed further below).

Why this matters to employers?

For employers, the risk is not only unenforceable agreements, but also potential statutory violations if prohibited repayment provisions are used. Organizations may choose to adopt California-compliant approaches more broadly to simplify administration and reduce risk.

Indiana clarifies tip pooling rules and defines eligibility for tipped and nontipped employees

On February 24, 2026, Indiana enacted [Senate Bill 245](#), which establishes new definitions and standards governing tip pooling practices and clarifies which workers may participate in or receive distributions from required tip pools. The law defines tipped employees as individuals who customarily and regularly receive tips, such as waitstaff, bartenders, bussers, and similar service roles, and distinguishes them from nontipped employees, including dishwashers, cooks, and janitorial staff. Managers and supervisors are expressly excluded from both categories and may not participate in any tip pool regardless of their duties. The statute allows employers to require tip pooling among tipped employees, and if the employer pays at least the state minimum wage, then the law also permits tip pools that include both tipped and nontipped staff. Employers must notify workers of required contributions and may not retain any portion of the tips collected.

The act further clarifies how to determine whether a worker customarily and regularly receives tips, instructing that the analysis should consider the impact of the worker’s duties on a customer’s

willingness to tip, even if the worker does not directly interact with customers. Duties that support the service function may qualify, and lack of direct customer interaction is not determinative. The law applies retroactively to address issues arising from the Supreme Court decision in *Loper Bright Enterprises v. Raimondo* and is effective June 27, 2024.

New York releases updated second quarter 2026 interest rates

The New York Department of Taxation and Finance [issued](#) tax interest rates for the period April 1 through June 30, 2026, including a 5 percent refund rate and a 10 percent late payment and assessment rate for withholding tax.

New York enacts new restrictions on “stay or pay” employment contract provisions

On December 19, 2025, New York Governor Kathy Hochul signed into law the Trapped at Work Act (TWA), which broadly prohibited “stay or pay” employment agreements requiring repayment or clawback of money from an employee upon a termination of employment. On February 13, 2026, Governor Hochul signed A9452, an amendment to the TWA, into law to clarify restrictions on “stay or pay” employment agreements.

What changed?

The amendments delay the effective date to December 19, 2026, narrow the scope to employees (previously independent contractors were included), and allow for specific repayment agreements regarding bonuses and relocation assistance, while still banning most restrictive training repayment provisions.

The statute, as amended, defines an “employment promissory note” as “any instrument, agreement, or contract provision that requires an employee to pay the employer, or the employer’s agent or assignee, a sum of money if the employee’s employment relationship with a specific employer terminates before the passage of a stated period of time.” This language is broad and encompasses most arrangements with a repayment provision.

Are any repayment arrangements still allowed?

The following exceptions apply:

- Repayment for costs of tuition, fees, and required educational materials for a transferable credential under terms substantially similar to California’s AB 692 (as discussed above, but without a limit on institutions operating in the state)
- Repayment for property that the employer has sold or leased to the employee, as long as the sale was voluntary
- Repayment of any financial bonus, relocation assistance, or noneducational incentive or other payment or benefit that is not tied to specific job performance, unless the employee was terminated for any reason other than misconduct or the duties or requirements of the job were misrepresented to the employee
- Requirements that educational personnel comply with any terms or conditions of sabbatical leaves granted by their employers
- Arrangements entered into as part of a union contract.

While the exceptions are narrow, the requirements, in certain respects, appear to be less stringent than under California law.

What should employers be doing now?

Employers in New York should do the following prior to the statute's effective date in December:

- Review compensation arrangements, standardized employment agreements, and benefit and expense reimbursement policies to identify repayment or clawback language
- Separate New York practices from national templates where needed
- Coordinate HR, Legal, Tax, and Employee Mobility teams to ensure alignment
- Reassess cost assumptions.

While there is still time to do this for New York arrangements, employers who also operate in the state of California must already comply with AB 692 (as discussed above) and will need to ensure that any agreements or changes in New York also do not run afoul of California law.

Why this matters to employers?

For employers, the risk is not only unenforceable agreements, but also potential statutory violations if prohibited repayment provisions are used. Organizations may choose to adopt New-York-compliant approaches more broadly to simplify administration and reduce risk.

Oregon updates rules for companionship services and domestic service exemptions

Oregon enacted Senate Bill 1518, which, effective January 1, 2027, narrows the state exemption for individuals who provide companionship services in private homes. The bill aligns the state definition of companionship services with federal regulation and clarifies when these workers must be treated as employees covered under state minimum wage and overtime rules. Under the revised statute, workers who provide companionship services through a third-party business are no longer exempt and must receive at least the state minimum wage and overtime for hours worked above 40 in a week, or above 44 hours if they reside in the home of the employer.

The bill also updates the broader definitions of domestic service and domestic workers and reaffirms categories of workers who remain outside the statute, including certain casual household workers, babysitters in specific circumstances, and workers compensated with public funds for home care services. Employers and agencies engaged in providing in-home personal care or companionship should evaluate worker classifications and pay practices to ensure compliance with the updated wage and hour requirements once the law takes effect.

Virginia clarifies business taxpayer treatment under fixed date conformity

The Virginia Department of Taxation released [Tax Bulletin 26-1](#), announcing that Virginia's tax law adopted a new fixed conformity date to the Internal Revenue Code of December 31, 2025, which includes the provisions of OBBBA, with certain exceptions. These exceptions to conformity include federal immediate expensing of qualified production property, domestic research and experimental expenditures, and increased expensing limits for certain depreciable assets. There are no exceptions noted to employment-related provisions, such as the qualified overtime credit or Trump account exclusion from wages.

Washington modifies paid family and medical leave premium structure

Washington enacted the [Second Substitute House Bill 2345](#), which adjusts how employer and

employee contributions are allocated between the family leave and medical leave portions of the state paid family and medical leave program. The change responds to recent federal guidance on the tax treatment of state-administered benefits and is expected to take effect June 12, 2026. Although the bill does not alter the total premium rate or the overall share of contributions between employees and employers, it reshapes how those contributions are divided between the two benefit programs.

Under the revised structure, employers may deduct the entire medical leave premium from employee wages. For the family leave premium, employers may deduct only a portion of the required amount, with the remainder funded directly by employer contributions. This represents a reversal from the prior rule, which allowed employers to deduct the full family leave premium and only a portion of the medical leave premium. Washington adopted the new distribution formulas after reviewing federal guidance indicating that medical leave benefits funded through employer contributions may be treated as taxable wages for federal income and employment tax purposes, while family leave benefits funded by employers do not carry the same treatment.

The premium calculation process itself remains unchanged. The Employment Security Department will continue to set the total premium rate each October using statutory formulas based on program expenses, trust fund balances, and monthly reserve requirements. The new law does not alter the annual wage base, contribution timing, or the rules governing which employers are required to pay the employer share. Employers with fewer than 50 employees may continue to opt out of the employer portion and may also continue to apply for voluntary grant assistance if they choose to pay the employer share.

Employers operating in Washington should review existing payroll system settings, cost allocation models, and benefit communication materials to ensure they reflect the revised contribution rules.



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