NEWSLETTER

February 2024

CONTENTS

pp. 1 **New Independent Contractor Rules:** Do They Affect Your Employees

pp. 2 **Tips On Small-Business Payroll**

pp. 4 **Payroll Tax Rates and Contribution Limits for 2024**

pp. 5 **How To Put Together a Compensation Plan**

pp. 6 **IRS Changes Mileage Rates for New Year**

New Independent Contractor Rules: Do They Affect Your Employees?

The Department of Labor's final rule for employee or independent contractor classification under the Fair Labor Standards Act rescinds the 2021 Independent Contractor Rule, replacing it with guidance on analysis that's more consistent with the FLSA as interpreted by longstanding judicial precedent, and was scheduled to take effect March 11, 2024.

The final rule reduces the risk of misclassification while providing greater consistency for businesses and gig workers, specifically:

- The designation of control and opportunity for profit or loss are given greater weight.
- Considering workers' investments and initiative only as part of the opportunity for profit or loss.
- Prohibiting consideration of whether work performed is central or important to your business.

A step toward greater clarification

The 2021 IC Rule narrowed the economic reality test: Is a worker economically dependent on the employer for work? This had a confusing and disruptive effect, departing from decades of case law and describing and applying the multifactor economic reality test as a totality-of-circumstances test.

Analysis of the final rule may be applied to workers in any industry and will be accessible in the Code of Federal Regulations. It doesn't adopt an ABC test, permitting an independent contractor relationship only if all three factors in a three-factor test are satisfied. Instead, the multifactor economic reality test that courts use to determine whether a worker is an employee or an independent contractor is used, relying on the totality of the circumstances where no one factor is determinative.

The final rule revises only the DOL's interpretation under the FLSA and has no effect on federal, state or local laws with different standards of classification. The IRS and National Labor Relations Act have different statutory language and judicial precedent governing the distinction between employees and independent contractors. The laws are interpreted and enforced by different federal agencies. The rule has no effect on state wage and hour laws that use the ABC test -- California's and New Jersey's, for instance. The FLSA doesn't preempt federal, state and local laws that apply. In brief, according to new federal guidance, businesses should meet whichever standard provides workers with the greatest protection.

The key aspects

The final rule affirms that a worker is not an independent contractor if economically dependent on an employer for work, applying six factors:

- Opportunity for profit or loss depending on managerial skill.
- Investments by the worker and the potential employer.
- Degree of permanence of the work relationship.
- Nature and degree of control.
- Extent of the work performed as integral to the potential employer's business.
- Skill and initiative.

Workers cannot voluntarily waive employee status, choosing to be classified as independent contractors. They cannot waive FLSA-protected rights like minimum wage or overtime pay. The Supreme Court has explained that waiving their FLSA rights would harm other employees, undermining the goal of eliminating unfair methods of competition in commerce.

Among the similarities to the 2021 rule: advice on definitions and on identifying economic dependence as the ultimate inquiry of the analysis, providing a non-exhaustive list of factors to assess economic dependence with no single factor being determinative. Both clarify that economic dependence doesn't focus on the amount of income the worker earns or whether the worker has other sources of income.

Differences between the new rule and the 2021 rule:

- Returns to a totality-of-the-circumstances economic reality test, where no single factor or group of factors is assigned any predetermined weight.
- Provides additional analysis of the control factor, including how scheduling, supervising, price-setting and working for others are considered when analyzing the nature and degree of control over a worker.
- Returns to the DOL's consideration of whether the work is integral to the employer's business rather than exclusively part of an integrated unit of production.
- Omits a provision from the 2021 rule that minimized the relevance of an employer's reserved but unexercised rights to control a worker.

Note that this is just a summary of a complex series of provisions. One thing certainly hasn't changed between the new rules and the old: the need for companies to obtain qualified professional advice to make sure they are in compliance.

Tips On Small-Business Payroll

Let's say you're a small business that doesn't have enough employees to warrant an entire human resources department. At the same time, the idea of manually doing payroll just doesn't suit you.

After all, who wants to tackle payroll when there are estimates out there claiming payroll can take an average of 18 hours per month? That's a lot of time to allocate toward one process, especially when you have so much else to do.

However, you need to pay your

employees something, and payroll is the way to do that. So, what can you do to streamline your payroll process? There are a number of options you can explore.

Come up with a payroll schedule

Decide on a payment schedule that you can stick to, and establish it as the official payroll schedule. If you need a premade calendar, you can turn to the National Finance Center for easy-to-download options.

Make your payroll taxes automated

One of the most important steps you can take is to automate your payroll processes. Look into your options for payroll software packages and providers. Make sure the package or service providers you choose are verifiable and guaranteed in the event of an audit.

Properly classify those who work for you

Assess the status of the people who work for you, and make sure you classify each employee

appropriately. If you're not sure which classification suits them best, refer to the official IRS classification guide. This will help you determine whether your workers are independent contractors or full-time employees.

Double-check all data entries

It's in your best interest to have multiple eyes look over your data entries. Even the smallest of errors can cause major issues, so make sure you do your due diligence to avoid mistakes.

Make valuable use of software

Utilize software but don't rely on it as though your life depends on it. Overly relying on software can put you in precarious positions, so always back up the software systems you use. The right software for you should be easy to use and cost-effective while freeing up your time and energy to focus on other matters.

Understand payroll rules and regulations

Make sure your payroll process is in compliance with applicable rules and regulations. If you need help understanding whether your payroll process is compliant, take a look at the American Payroll Association's guide to state payroll laws.

Hire a payroll manager and an accountant

It's best to appoint someone who has experience in the realms of HR, business, finance or accounting. Consider talking to them about taking on responsibilities associated with payroll management.

Make sure you keep tabs on all records. Pay attention to how much you paid whom and when. Look into the retention requirements regarding wages in your state. While the IRS expects businesses to maintain records for three years, this statute may vary from one state to another.

Always automate the process of calculating your employees' wages and tax withholdings. Keep a log of how many hours each of your employees works per week and transfer that information to your payroll software for safekeeping.

A lot of people assume that payroll will always be a headache, but it doesn't have to be that way. With the help of providers, software or professionals, you can ensure that your employees are paid on time every time.

By calling upon the help of other people, you can accurately pay your employees via direct deposit, document their personal information, stay on top of termination dates and track the classifications, e.g., hourly versus salaried, of those who work for you. You can even learn about ways to integrate all this information into your existing accounting software. The result is the easy tracking of payroll expenses.

Ultimately, payroll options can provide you with a solution that best suits your business needs. The right payroll processes will make your management tasks easier. This means handling employee benefits and providing payroll reports will be a breeze, meaning you can better manage your company and your employees.

As a good rule of thumb, select a payroll process that doesn't require an advanced degree to implement. Refer to your provider and determine whether there is a self-service employee portal. That way, it's simple to view all paystubs and end-of-year tax forms when the time comes.

Payroll Tax Rates and Contribution Limits for 2024

Below are federal payroll tax rates and benefits contribution limits for 2024.

Social Security tax

In 2024, the Social Security tax rate is **6.2%** for employers and employees, unchanged from 2023. The Social Security wage base is **$168,600** for employers and employees, increasing from $160,200 in 2023. Self-employed people must pay 12.4% on the first $168,600.

Medicare tax

In 2024, the Medicare tax rate for employers and employees is **1.45%** of all wages, unchanged from 2023. Self-employed people must pay 2.9% on all net earnings.

Additional Medicare tax

In 2024, the additional Medicare tax remains unchanged at **0.9%**. This tax applies to wages and self-employment income over certain thresholds ($200,000 for single filers and $250,000 for joint filers).

401(k) limits

In 2024, maximum contributions to traditional and safe harbor plans are as follows:

- Employee (age 49 or younger): **$23,000**, up from $22,500 in 2023.
- Employee catch-up (age 50 or older): **$7,500**, unchanged from 2023.
- Employee and employer (age 49 or younger): **$69,000**, up from $66,000 in 2023.
- Employee and employer (age 50 or older): **$76,500**, up from $73,500 in 2023.

Employees can contribute up to **$16,000** to a SIMPLE 401(k) plan, up from $15,500 in 2023.

Health savings account and high-deductible health plan limits

In 2024, the maximum contributions to an HSA are as follows:

- Employer and employee: **$4,150 (self only)** and **$8,300 (family)**.
- Catch-up amount (age 55 or older): **$1,000**.

In 2024, the limits for an HDHP are as follows:

- Minimum deductibles: **$1,600 (self only)** and **$3,200 (family)**.
- Maximum out-of-pocket amounts: **$8,050 (self only)** and **$16,100 (family)**.

Flexible spending account limits

In 2024, employees can contribute:

- Up to **$3,200** to a health care FSA, increasing from $3,050 in 2023.
- Up to $5,000 to a dependent care FSA if filing single or jointly and up to **$2,500** if married but filing separately.

Qualified Small Employer Health Reimbursement Arrangement limits

In 2024, employers with a QSEHRA can reimburse employees for health care expenses as follows:

- $6,150 (**self only**), up from $5,850 in 2023.
- $12,450 (**family**), up from $11,800 in 2023.

Commuter benefits limit

In 2024, employees can contribute up to $315 per month for qualified commuter benefits (e.g., mass transit and parking), up from $300 per month in 2023. This limit includes any employer contributions.

Adoption assistance exclusion limit

In 2024, up to $16,810 in employer-sponsored adoption assistance may be excluded from an employee's gross wages, increasing from $15,950 in 2023.

Remember, these are all federal rates and limits. Be sure to check with the necessary agencies for state and local rates.

Note that this is a summary of some very complex provisions. Don't make any assumptions about your situation until you've spoken with a qualified tax professional.

How To Put Together a Compensation Plan

A compensation plan is designed to attract and retain employees. Build your compensation plan to ensure pay equity while balancing the needs of your small business and delivering value to customers.

Pay competitively relative to companies similar to yours in size and industry in your region. Compensation can tie in directly to regional compensation data, how employees are performing in their roles and where they are relative to the next level above them.

Set a philosophy on where you want your overall compensation to fall compared with the ranges in your market. By setting ranges, you assess your employees within a framework based on market data, so you can be transparent with them. Your criteria can mix technical skills with the soft skills you consider important across your organization, and that will aid in conversations about growth and how employees can get promoted to the next level. Workers are more likely to stay in a role where they anticipate salary growth and the development path to get there. This creates more predictability for the finance team.

Consider all the moving parts

A basic compensation package consists of salary or wages. A more comprehensive compensation package includes additional benefits: bonuses, perks, commission, health insurance and retirement plans. For employees, a sense of belonging imbues job satisfaction, engagement and effort. The right compensation strengthens self-direction, interconnectedness and success.

Compensation plans offer fair and competitive payments that align with the company budget and promote business success. Structure a competitive compensation program with direct and indirect components.

Direct compensation refers to the financial payments — salaries, bonuses and equity — in exchange for time worked or results obtained. Salary is the bedrock of your company's compensation plan. When calculating wages, consider the following important factors:

- Geography.
- Job responsibilities.
- Cost of living.
- External market data.

When calculating bonuses used to reward team members for high performance, consider these three questions:

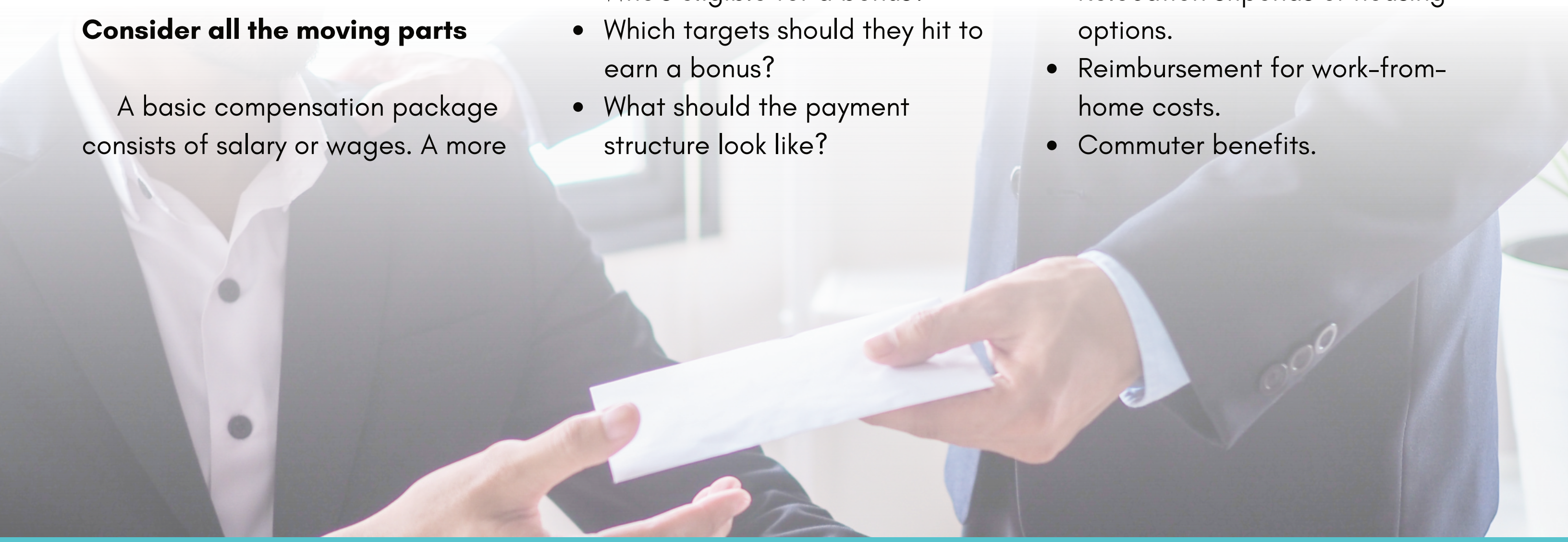
- Who's eligible for a bonus?
- Which targets should they hit to earn a bonus?
- What should the payment structure look like?

Equity compensation offers a stake or partial ownership in the company to encourage high performance. Team members get the message that when the company succeeds, everyone succeeds.

Look at the big picture

Holistic, people-driven strategies work to improve company culture by attracting and retaining talent. Competitive salaries help, but they are rarely enough anymore. Today's indirect compensation elements include:

- Medical insurance.
- Dental and vision coverage.
- Retirement benefits.
- Wellness benefits like gym memberships.
- Educational incentives.
- Mental health services like therapy or counseling.
- Volunteer opportunities.
- Flexible spending accounts.
- Hybrid working arrangements.
- Paid time off.
- Disability insurance.
- Paid holidays.
- Child care initiatives.
- Relocation stipends or housing options.
- Reimbursement for work-from-home costs.
- Commuter benefits.



Compensation packages that adequately reward employees for their hard work can drive business profit.

An effective compensation plan illustrates company integrity and transparency, assists in attracting and retaining top talent, boosts employee motivation and loyalty, and reduces turnover and hiring expenses.

Base your program on external market analysis and internal company data. Benchmark with similar organizations to create an appealing payment package.

Take the long view

By outlining your company's underlying approach to compensation, you place the program in context, promoting alignment with your company's objectives and values. A good compensation plan includes a pay-for-performance strategy, for example, that helps retain employees.

Explain the program to employees, communicating the components to demonstrate integrity and nurture trust. When your team understands your compensation philosophy, it can feel confident investing effort in the work.

A clear employment contract — aligned with state and federal laws — shows respect for employee-employer relations and helps prevent disagreements and legal misconduct. Pay is personal — it's how employees measure their worth to their employers and fund and build their lives. When you get compensation right, it positively impacts your workers and lets them better focus on the work.

IRS Changes Mileage Rates for New Year

According to an IRS statement, starting in 2024, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 67 cents per mile driven for business use, up 1.5 cents from 2023.
- 21 cents per mile driven for medical or moving purposes for qualified active-duty members of the armed forces, a decrease of 1 cent from 2023.
- 14 cents per mile driven in service of charitable organizations; the rate is set by statute and remains unchanged from 2023.

These rates apply to electric and hybrid-electric automobiles as well as gasoline- and diesel-powered vehicles.

The IRS explains that the business rate is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs.

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

What you can and cannot do

The IRS stresses that under the Tax Cuts and Jobs Act, taxpayers cannot claim a miscellaneous itemized deduction for unreimbursed employee travel expenses. Taxpayers also cannot claim a deduction for moving expenses unless they are members of the armed forces on active duty moving under orders to a permanent change of station.

Taxpayers can use the standard mileage rate but generally must opt to use it in the first year the car is available for business use. Then, in later years, they can choose either the standard mileage rate or actual expenses. Leased vehicles must use the standard mileage rate method for the entire lease period, including renewals, if the standard mileage rate is chosen.

Notice 2024-08 contains the optional 2024 standard mileage rates as well as the maximum automobile cost used to calculate the allowance under fixed and variable rate plans. In addition, the notice provides the maximum fair market value of employer-provided automobiles first made available to employees for personal use in calendar year 2024 for which employers may use the fleet-average valuation rule or the vehicle cents-per-mile valuation rule.

Scan here for more blogs and insights