

Record Keeping & Retention

Chapter 10

CPP Study Class
2017

American Payroll
Association

Los Angeles
CHAPTER

Recordkeeping and Record Retention

- How long do we maintain records?
- In what format?
- What are the penalties for non-compliance?
- What procedures will help a payroll department stay compliant and out of trouble?
- When can I destroy documents?

Federal Wage and Hour Law, FLSA

- Requires that certain records be kept by employers for employees and retained for either 2 or 3 years
- Years can be either calendar years, counted by effective date or last date of entry
- Type of employment can effect retention date requirements (tipped ee's, hospital ees...)
- If records are maintained at a central location, they must be available for inspection within 72 hours

Records that must be kept for at least 3 years from their date of entry include:

- Name on SS card
- Complete home address
- DOB (if under 19)
- Sex & occupation
- Beginning of ee's work week, time and day
- Reg rate of pay for OT weeks and the backup
- Daily and weekly hours
- Straight time earnings
- OT premium earnings
- Additions to or deductions from wages for each pay period (bonus/garn/etc)
- Total wages for each pay period
- Date of payment and period covered
- White collar ee's- no need to keep records of hours worked

Records that must be kept for at least 3 years from the last date they were effective:

- Collective bargaining agreements
- Certificates authorizing the employment of minors, industrial home-workers, students, handicapped workers
- Records showing total sales volume and goods purchased

Records that must be kept for at least 2 years from their last date of entry include:

- Basic employment and earnings records supporting the data for each employee's hours of work, basis for determining wages and wages paid (time card!)
- Order, shipping and billing records
- Records substantiating additions to or deductions from ee's wages, wage assignments/garnishments/PO's

Records that must be kept for at least 2 years from the last date they were effective:

- Wage rate tables and piece rate schedules
- Work time schedules establishing the hours and days of employment

Retention Formats

- There is no requirement to keep records in any particular form
- They must be accurate, complete and able to be understood
- If on Microfilm or fiche, the employer must have viewing equipment available and provide transcriptions when asked
- Records may be created and stored electronically

Penalties for recordkeeping violations

- Willful violations of recordkeeping requirements - criminal penalty up to \$10,000 and/or
- Second and subsequent convictions - jail for up to 6 months

Internal Revenue Code

keep 4 years after the due date of the tax which relates

(FIT and FICA)

- Ee's name, address, occupation and SSN
- Total amt and date of each comp pymt and amt of w/hldg taxes
- Amt of comp subject to FIT, FICA and the amt w/hld and when
- Pay period covered by each pymt of comp
- W4, W-5
- W4P and pymnts
- EIN
- Beg and end dates of employment
- Tip reporting statements
- Wage cont pymts under an accident/health plan and dates absent, W4S
- Fringe benefits and substantiation
- EE request to use the cumulative method
- Returns, 940, 941, 943 W3, W2
- Adjustmnts /Tax Settlmnts

Records processed by computer

- Companies are not relieved of record keeping responsibilities just because they use a service bureau.
- All detail and source records must be readily identifiable
- Records must be available to the IRS upon request and capable of being processed
- Records must show the complete audit trail
- Records must allow the IRS to compute the companies tax liability

Records processed by computer

Employers must maintain documentation that is detailed enough to identify:

- Data flow through the system
- Internal controls for accuracy and reliability
- Internal controls for prevention of unauthorized addition, deletion/alteration of records
- Chart of accounts and account descriptions

Records processed by computer

- DBMS (Data Base Management Systems)
- EDI (Electronic Data Interchange)
- Resources for IRS examination: Equivalent of paper record, IRS would have access and use of the system at the employer's premises

Penalties for Faulty recordkeeping

- It's a misdemeanor punishable by a fine of up to \$25,000 (\$100,000 for corporations) and/or up to 1 year imprisonment, plus the costs of prosecution

Other Laws requiring document retention

- Federal Anti-Discrimination Laws-usually kept by HR but with integrated DB systems PR may be involved
- Civil Rights Act of '64 (Title VIII)-enforced by EEOC (Equal Employment Opportunity Commission) -1 year (also ADA)
- Age Discrimination in Employment Act of '67 (ADEA) –(protects those of us over 40!) 1 year-info on applications, 3 years info on employees
- Government Contractor Regulations (goal hiring)

Other Laws requiring document retention

- Immigration Reform and Control Act (IRCA) - I-9's keep for 3 years after the date of hire and/or for 1 year after the date of termination
- FMLA-same as FLSA requirements with special consideration to confidential medical information
- SUI –see chart pg 14, most states require 3 - 6 years of retention – TN = 7, MN = 8!
- State wage and hour law-see chart pg 16
- Unclaimed Wages – escheat laws – chart pg 17

Other document retention considerations

- Direct Deposit
- Record Retention Procedures
- Employee Master File
- New Hire Documents

Record Retention and Storage

- Paper Storage
- Imaging
- Electronic Vaulting (off site)
- Retrieval and destruction of records
- Method of record destruction must be 'reasonable'...protect against unauthorized use...

Health Insurance Portability and Accountability Act of '96 (HIPAA)

- Privacy rules regarding health information
- Privacy policies & procedures, privacy practices notice, disposition of complaints - must maintain until 6 years after the later date of their creation or last effective date
- Civil penalty - \$100 per failure to comply with Privacy Rule not to exceed \$25,000 per year

Record Retention



The End!