Pay Attention to Payroll Compliance: 5 Steps for Employers Facing 27 Pay Periods in 2026

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Many employers issue paychecks every other week, which typically results in 26 pay periods per year. This year, however, employers on a biweekly schedule may have 27 pay periods, depending on when you process payroll. The occasional adjustment occurs roughly every decade due to leap years and the mismatch between 365-day years and 14-day pay cycles. How will this impact your wage and hour strategies in 2026? If you haven't already planned for this anomaly, be sure to coordinate now with your attorney and payroll administrator. Here's what you need to know and your five-step action plan.

What's Happening

Employers that started the year with a paycheck on Friday, January 2 may intend to pay the last check of the year on Thursday, December 31 (since Friday, January 1, 2027, is a holiday). By doing so, they will be issuing 27 – instead of the usual 26 – paychecks this year.

While this might not seem like a big deal at first glance, the change can cause payroll, budgeting, and compliance headaches, particularly for exempt employees who are paid on a salary basis.

Budget Implications

The biggest risk from failing to account for the extra pay period is overpaying salaried workers. Consider this example:

Sally earns an annualized salary of $78,000. This amount is typically divided into 26 equal paychecks of $3,000. In a year with 27 pay periods, however, Sally will be paid $81,000 if the company has failed to account for the extra pay period. What if you have 25 exempt employees in Sally's department earning the same salary? Now you've overspent by $75,000. This represents about a 3.85% increase to your payroll cost for those exempt employees (not to mention retirement fund matches, employer payroll taxes, and other expenses and funding issues associated with employee earnings).

So, if you've already paid them their full salary by week 26, can you just withhold the 27th check? No. We'll tell you why below.

Refresher on the “Salary Basis” Requirement

Employees who are properly classified as exempt from overtime under the federal Fair Labor Standards Act’s (FLSA’s) executive, administrative, and professional (EAP) exemptions must:

- Be paid on a salary basis
- Earn at least $684 a week
- Meet certain duties tests

Being paid on a salary basis means receiving a predetermined amount each pay period – and that amount cannot be less than $684 a week under federal law.

Exempt employees must generally receive the full salary for any week in which they perform any work, regardless of the number of days or hours they work. Moreover, employers can’t reduce the predetermined amount unless certain limited exceptions apply.

Requirements may vary for other exempt categories, but the EAP exemptions are the most common. Also, you should note that some states have higher salary thresholds and different exemption criteria, so you’ll need to ensure compliance with all federal, state, and even local wage and hour requirements.

5 Key Mistakes to Avoid

1. Miscalculating Annual Salaries: Make sure you’re not overpaying exempt employees by dividing their annual salary by 26 pay periods and actually issuing 27 paychecks. This miscalculation can impact total compensation, create payroll and budget issues, and confuse employees. You’ll also want to consider terms and conditions in offer letters and employment contracts.

2. Violating Exempt Status Requirements. If you reduce paychecks, ensure weekly pay doesn’t drop below the minimum salary threshold required for exempt status under the FLSA and applicable state laws. This type of violation can trigger non-exempt status and lead to overtime pay obligations.

3. Ignoring Annual Benefit Limits. Ensure you’re not violating IRS rules by overcontributing. Note that health insurance premiums and limits for FSAs, HSAs, and 401(k) plans are typically set by calendar year.

4. Failing to Comply with Notice Requirements. Check federal, state, and local requirements for notifying employees before adjusting pay frequency or amounts. Notably, some states have strict requirements on how notice should be handled.

5. Underestimating Your Payroll Budgeting. As we mentioned above, issuing a 27th paycheck without adjusting or budgeting accordingly could increase payroll costs by at least 3.85% for exempt employees. This can have a huge impact on cash flow and the bottom line.

5 Steps Employers Should Take Now

Even though 2026 has already begun and you've probably issued your first paychecks of the year, it's not too late to make adjustments. Consider taking the following steps now:

1. Review Your 2026 Payroll Calendar: Determine whether your organization will have 27 biweekly pay periods this year. If you issued paychecks on Friday, January 2, you'll likely have 27 total pay dates, with the last one issued on Thursday, December 31 (since January 1, 2027, is a holiday).

2. Decide Whether to Adjust: Will you allow employees to receive an "extra" check this year or reduce future paychecks accordingly? Be sure to discuss your options with employment counsel before making any changes to salaries.

3. Communicate with Employees. Regardless of your plan moving forward, you'll want to communicate clearly and as soon as possible with employees to set their expectations. You'll also want to ensure the notice and timing of adjustments comply with all applicable laws.

4. Assess Your Benefits Plans and Deductions. Audit your payroll deductions for benefits such as health insurance, FSAs, HSAs, and retirement plans. Ensure compliance with the terms of your plan documents and any applicable laws, including IRS annual limits.

5. Review and Potentially Revise Your Budget. Depending on how you plan to adjust the extra pay period, you may need to revise your 2026 budget.

Conclusion

We will continue to monitor developments related to all aspects of wage and hour law. Make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our Wage and Hour Team.

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