

# RESOURCEFUL FINANCE PRO

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# CFO News Briefs

## Stories You Might Have Missed

### **IRS Section 174 changes: Tech firms facing huge tax bills are laying off workers**

January 16, 2024

The 2017 Tax Cuts & Jobs Act featured a major change to how companies can write off expenses. The change went into effect in July 2022, but a lot of companies apparently didn't get the heads up from their accountants and are now scrambling to pay sky-high tax bills.

Previously tech companies could deduct cash outlays like software engineer salaries as research & development (R&D) expenses in the year incurred, under Section 174 of the Internal Revenue Code. Then Congress and President Trump authorized a five-year amortization period for that tax preference to Big Tech, in part to pay for lower tax rates for individuals and corporations.

For foreign companies and tech workers outside the U.S., the R&D write-off period is now 15 years, making it a no-brainer for companies to lay off foreign employees first. In addition, companies must treat software development costs as R&D expenditures.

#### **Fixing the problem is on Congress' tax writers' radar**

Tech industry watchers expected Congress to defer the new requirement to capitalize R&D expenses, but a deal fell apart at the end of December 2022. Now the chief GOP and Democrat tax writers are rushing to reinstate the full R&D write-off provisions.

A deal between Democrat Senator Ron Wyden of Oregon and Republican Representative Jason Smith of Missouri to give companies tax relief may face an uphill battle in both chambers. To pay for the roughly \$80 billion in tax breaks, Wyden and Smith propose to eliminate the controversial and fraud-ridden employee retention credit.

If and until Congress revises the tax code, companies in biotech, software and contract manufacturing will continue to receive tax bills tens to hundreds

of thousands of dollars higher than before. Startups and small- to mid-sized organizations coming off down years are laying off software engineers and programmers to pay their taxes. Some will try taking out loans to pay the IRS and others may opt to declare bankruptcy.

Many large companies, such as Amazon and Northrop Grumman, warned about the coming tax bills and urged Congress to revise the law more than a year ago. Many tech entrepreneurs worry the changes to Section 174 will stymie the industry, particularly biotech.

The IRS released guidance on amortization related to tax returns for 2022 and later. Section 174 provides tax relief for labor costs (including full- and part-time employees and contractors), materials and supplies, cost recovery, patent costs, overhead costs and travel expenses.

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### **Supreme Court hearing 2 cases that could ease regulatory & labor board pressure on businesses**

January 17, 2024

This week, the U.S. Supreme Court begins hearing two appeals – one concerns a 40-year-old precedent that favors federal regulatory agencies, and the other a seemingly narrow labor union dispute. Both cases will bring a measure of relief for employers once the decisions are announced by the end of June.

First the labor case: Starbucks is appealing a National Labor Review Board (NLRB) decision that the 6th Circuit Court of Appeals upheld last year. The coffee making corporation fired seven employees at a Memphis, Tenn. store who allegedly opened the shop without the company's consent and invited reporters in so they could give interviews. The so-called Memphis Seven were vocal supporters of unionizing the Starbucks shop.

The NLRB determined that Starbucks retaliated against the employees because of their union leanings and ordered the company to rehire them. Starbucks complied but appealed to the 6th Circuit. Starbucks says it supports fair wages for its workers and respects union protections, but is embroiled in hundreds of NLRB disputes brought by employees. Workers say the company is firing pro-union members and working behind the scenes to weaken unionization efforts.

Prediction: The Supreme Court will almost certainly reverse the 6th Circuit's decision. The NLRB under President Biden's direction has forced other companies to retain or rehire unionized workers fired for cause.

### **Will the High Court kill the *Chevron* deference once and for all?**

Forty years ago, the Supreme Court ruled that judges should defer to federal agencies' rulemakings and interpretations of ambiguous statutes so long as they're reasonable in a case involving *Chevron*. The *Chevron* deference or doctrine allowed agencies to create policy, often at great cost to industry sectors, without the input of Congress.

In cases where the *Chevron* deference is granted, regulatory agencies win more than 70% of cases. The feds' winning percentage drops to well under 50% when judges determine an agency isn't acting reasonably or fairly.

Some lower courts still defer to the *Chevron* doctrine. The conservative Supreme Court is no longer extending *Chevron* deference to agencies like the Environmental Protection Agency, but it declined to rule firmly against the doctrine in a case two years ago. This time around, a case involving small fishing companies that were forced to pay for the costs of observers who monitor compliance with National Marine Fisheries Service regulations is on the High Court's docket.

Many of the individual and industry group lawsuits fighting federal regs center on violations of basic constitutional rights. This appeal takes aim at the feds demanding payment from businesses that must already pay to comply with federal (and state) rules.

Three justices – Clarence Thomas, Samuel Alito and Neil Gorsuch – have written and spoken publicly of their desire to overturn *Chevron*. Two or three of the other conservative justices are more than likely to join them and rein in government agencies' powers.

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## **\$34 trillion & counting: National debt is top worry of CEOs & CFOs**

January 18, 2024

The 1,000-ton elephant squeezing everyone out of the room is now front and center in the minds of business owners and finance executives. The top worry is no longer "interest rates" or "the talent gap" or "inflation" or "China."

The \$34 trillion and climbing national debt is the greatest threat to the economy growing and businesses surviving in 2024, according to 1,200-plus CEOs and other C-level executives surveyed by the Conference Board. Now that interest to pay treasuries is equal to defense spending, there's only so much good that quantitative tightening and eventual easing by the Federal Reserve can do to tame inflation.

"For CEOs, the biggest risk is right at home: the mushrooming U.S. national debt and deficit," concludes the Conference Board. To put it in perspective, the U.S. debt is nearly equal to the gross domestic product of China, Germany, Japan and India combined. Congress and the White House are borrowing roughly a trillion and a half dollars to fund the government per year since the early days of COVID-19.

### **Focusing on what can be controlled**

The Conference Board results square with what many business pros are saying on social media and message boards. The government is strangling the private sector by printing massive sums of unbacked money, funding wars in Afghanistan, Iraq and Ukraine, and failing to eliminate government programs and spending by any meaningful measure.

The external factors execs are most concerned about now are:

- economic recession
- inflation
- global political instability
- high borrowing costs, and
- AI upheaval.

An economic downturn and/or recession ranked as the top worry among CEOs globally, U.S. CEOs and C-level execs, and European and Latin American CEOs. Only Japanese CEOs ranked a recession as their second greatest concern, behind a labor shortage.

At the end of the day, CEOs and CFOs know there's very little they can do about the "big picture." Execs need to stay laser-focused on their own organizations to protect the bottom line and hopefully preserve people's jobs.

Execs polled by the Conference Board predict they'll be focused on these internal priorities over the next two years:

- attracting and retaining talent
- accelerating the pace of digital transformation (including AI)
- enhancing product and service innovation
- improving the customer experience
- reducing costs, and
- upskilling and reskilling current employees.

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### How much is that building really worth? Real estate is padding the numbers

January 22, 2024

Since the start of the COVID-19 pandemic, the generally agreed-upon value of commercial real estate

has dropped 35%. We think it's a good bet the true drop in value is even worse.

Take a recent commercial real estate (CRE) deal that painted an optimistic picture of the commercial real estate (CRE) market but now looks a tad shady after the Wall Street Journal dug deeper into the details: SL Green Realty sold a 49.9% stake in a New York City office building at 245 Park Avenue for \$2 billion last June.

The deal caught a lot of people's attention in the CRE market. Buildings in New York, Los Angeles and other major cities are facing record-high vacancy rates and a tsunami of defaults is expected as CRE mortgages come due over the next two years.

So a welcome dose of good news caused SL Green's stock price to jump 20% on the day the deal was announced. The reality? The \$2 billion price tag – the bottom-line number that market watchers and investors count on as "the truth" – wasn't everything SL Green wanted the world to believe it was.

Mori Trust, the Japanese investor that bought into the Manhattan office tower, also secured a 6% discount on the building's debt load valued at more than \$500 million. SL Green failed to mention the sale of its debt in its earning report or press release, according to the Journal. In addition to securing \$174 million in cash from Mori Trust, SL Green managed to reward its shareholders to boot.

The sale also skewed market values for metropolitan office buildings to some degree. How much so may become a matter of interest for the U.S. Securities Exchange Commission.

#### Landlords giving tenants millions to stay put

Landlords are increasingly offering cash gifts and incredibly generous discounts to attract and retain tenants. The Journal estimates building owners are giving away millions of dollars in free rent, building alterations and other kinds of financial enticements in what's a famished dog-eats-dog market.

Most tenants know the ball's in their court. Of course, so do the landlords. Not all tenants may appreciate how much landlords need them or the variety of perks they can offer to tip a good deal into the great column.

For example: Amenities such as housekeeping, food & beverages, furniture and parking may be worth pricing out and negotiating over. Also: Newer Energy Star-rated heating, ventilation and air-conditioning equipment, plumbing fixtures and lighting keep energy costs down.

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### Big 4 accounting firm pulls plug on DEI quotas

January 24, 2024

The second-largest accounting firm in the U.S. decided to revamp its hiring policies rather than face class-action lawsuits or an investigation by the Equal Employment Opportunity Commission. This is just the latest example of a private-sector company adjusting in response to the Supreme Court ruling against Harvard University last year.

PricewaterhouseCoopers (PwC), one of the vaunted Big 4 accounting firms, is eliminating diversity, equity and inclusion (DEI) targets for its internship and scholarship programs. The company will also drop a commitment to earmark at least 40% of its procurement budget toward minority-owned suppliers.

America First Legal (AFL) sent a cease-and-desist letter to PwC in recent weeks warning of future litigation against it unless it ended its racial quotas. AFL described PwC as “one of the worst offenders when it comes to implementing racially discriminatory practices.”

Changes at PwC will include “ending race-based eligibility criteria for a student internship program and for scholarships to help candidates prepare for professional accounting exams, two initiatives that were designed to increase the diversity of the firm’s employee base,” according to the Financial Times. PwC reported it hired 3,500 people in fiscal year (FY) 2023, of whom “56% were racially/ethnically diverse.”

The percentage of white new hires at PwC dropped from 58% in FY 2021 to 51% in 2023. Many students say the costs of going to college and sitting for the

certified public accountant exam are too high, leading to an exodus from the profession.

### Big companies under pressure to drop quotas

Don’t be surprised if the other members of the Big 4 scale back their diversity initiatives. All of the firms – Deloitte, Ernst & Young and KPMG – are strongly committed to DEI practices in recruitment and hiring.

The Big 4 handle roughly 80% of audits of private companies. They’re also a training ground for accountants, accounting managers and related financial professionals. Deloitte and PwC each employ more than 45,000 people. Deloitte created an in-house university in 2012 to train employees.

Salaries for entry-level CPAs can vary by state but tend to top out at \$90K annually. Meanwhile the average college graduate racks up \$37K in student loan debt.

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### 3 strategies to reduce late payments

January 27, 2024

Companies are likely to see more customers stretch payments in 2024. Don’t be surprised if a steady client ghosts you either.

Reason: Bankruptcy filings by individuals and businesses increased by more than 18% in 2023. And Chapter 11 reorganization filings surged by 72% last year. A frightening number of businesses are just barely getting by but may not be exhibiting the warning signs. Yet.

Billing and accounts receivable professionals need to be on alert for the most common late payer tactics to make sure their organizations get paid. A/R and credit and collections experts shared some of the proactive steps they’re taking to reduce late payments on a recent Extra Credit podcast sponsored by the National Association of Credit Management.

#### 1. Make time for the personal touch

Electronic communication and automation are great tools for ensuring that payments come in and go out

on time. But the personal touch is still important and shouldn't be overlooked.

"Meeting with the customer in person [when you can] is important," says Nelida Nervaag, a credit manager for Robert Madden Industries. "Everything is electronic today. So the personal touch is a great tool for learning about a customer" and especially any cash flow problems.

Nervaag aims to "establish a personal connection with the customer." As a result, customers call her to alert her to a payment or invoice issue in a prompt fashion.

### **2. Always be investigating**

The chances of a customer warning you it's about to go under are very slim to none. That's a reality that C&C Manager Martine Dyer of Restaurant Equipment Service Group is seeing play out in her industry.

"We're seeing companies, even large ones, file for bankruptcy," says Dyer. "The investigation never ends. You need to keep searching for information. Payment habits are so important. [Don't go by a] company's name" or reputation in the industry.

Tip: Companies can, but frequently don't, check a customer's banking history before extending credit. Banking often provides the missing info that's needed to get the full picture of a customer's financial health.

### **3. Don't hesitate to use leverage**

Construction companies, contractors and suppliers that are owed payment can file a lien against the properties they work on in several states. A friendly reminder of that legal leverage helps Marcela Ramon, a credit manager for RCP Block & Brick, prevent late payment hassles.

"We send out automated email reminders of payment coming due a few weeks out, and I'll send a personal email after that," says Ramon. If a customer doesn't respond, Ramon then sends an email spelling out her company's right to file a lien notice. "We [typically] do this for habitually late payers."

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# A/P News Briefs

## Stories You Might Have Missed

### Crunch time for A/P: Have you checked these boxes for Form 1099-NEC, Form 720 filing?

January 12, 2024

The big January 31 filing deadline for Form 1099-NEC is almost here!

Organizations must not only put Form 1099-NEC into the hands of payees by that date, the IRS needs its copies of the returns by Jan. 31 as well.

Fortunately, you have a little more time with Form 1099-MISC. The deadline is February 28, 2024, if paper filing and by April 1, 2024, if filing electronically.

Because penalties for inaccurate or late filing can be significant (for example, if late 30 days or less, the fine is \$60 per form), it's time to check how close your team is to having these tasks completed:

- **Collecting W-9s.** Have all vendors and independent contractors submitted accurate W-9 forms with their correct Taxpayer Identification Number?
- **Identification of all reportable payments.** Have all vendors that you paid at least \$600 to in 2023 been identified? They all need to be sent a Form 1099 in a timely manner.
- **Preparation of forms.** Have individual 1099 forms been generated for each eligible vendor with accurate information in the designated boxes, including payment amounts and tax codes?
- **Come up with a processing and reporting plan.** If you're filing at least 10 of any Form 1099 return, you have to electronically file them. You also need to select your preferred method for filing, whether it's the IRS FIRE system or IRIS portal (both systems require a Transmitter Control Code), or utilizing a third-party tax software.
- **Copies for internal records.** In case of an audit, do you have internal copies of all filed 1099s and supporting documentation?
- **Vendor communication.** Have you informed vendors about the estimated time frame for receiving their 1099s?

If it seems like you're behind schedule on any of these steps, it may be time to consider using an automation solution to streamline processing and filing tasks.

### Like Form 1099-NEC, Form 720 also coming due

Form 720 – the federal return for businesses that sell goods or services subject to excise tax – for Q4 of 2023 also has a fast-approaching due date of Jan. 31.

Here's your to-do checklist, which should be close to completion:

- Are you up-to-date on any recent changes to the taxes reported on Form 720 that are relevant to your business?
- Did you coordinate with departments like Purchasing and Inventory to ensure accurate tracking of taxable transactions?
- Did you double-check that Form 720 has your business name, address, Employer Identification Number, tax year, type of excise taxes and amount of excise taxes owed? Are the calculations accurate?
- Did you obtain invoices, purchase orders and any other relevant documentation related to your excise taxes for the fourth quarter of 2023?
- If you plan to file electronically, are you registered in the Electronic Federal Tax Payment System? Alternatively, the form can be mailed to the IRS address listed in the instructions.

## Chargebacks wrecking your cash flow? Here are some tips for getting them under control

January 29, 2024

Whether they're triggered by criminal fraud, duplicate charges, a technical glitch or a dissatisfied customer, credit card chargebacks can become a nagging pain point for A/P and a disruptor to the efficiency and profitability of your business.

In fact, Mastercard predicted that businesses would collectively lose more than \$1 billion on them in 2023 alone.

Because chargebacks involve a credit card issuer repaying the customer, there's a chance you could get hit with a processing fee on top of losing money on a disputed transaction. The amount can vary depending on the reason and the card network involved.

If left unchecked, chargebacks can damage your company's business relationships and negatively impact customer trust, leading to decreased sales and brand loyalty.

Often, it's up to A/P not just to resolve chargebacks, but to ensure they're not suspicious. A 2023 report from SaaS company Chargebacks911 found that nearly three-quarters of surveyed respondents reported a 19% average increase in "friendly fraud" incidents where customers falsely disputed legitimate transactions.

### Proactively preventing disputes

Here are some effective best practices for minimizing the impact of chargebacks and protecting your revenue:

- 1. Prioritize security and fraud prevention.** Consider an audit of the strength of your fraud prevention measures for online and physical transactions. This includes an evaluation of the security of your payment gateway, your customer verification tools and if your fraud prevention software is up-to-date.
- 2. Refund policy transparency.** How clear are your return, refund and order cancellation policies? Are they easily accessible? Is the language clear and concise, ensuring that customers understand their options before purchasing?

- 3. Clear billing data.** Any confusing billing descriptors need to be fixed as soon as possible because customers may dispute a legitimate transaction if they're reconciling expenditures and either don't recognize your business name or the charge amount.
- 4. Collaborate with your merchant account provider to analyze any disputed charge trends.**
- 5. Ensure your product and service descriptions are accurate.** Misleading language in product descriptions can lead to chargebacks. Adding high-quality images and/or videos to product descriptions can be a big help.
- 6. Manage expectations.** Is your fulfillment team communicating realistic shipping and delivery timelines? How about updates to customers about any delays?
- 7. Customer service.** Do you offer multiple "contact us" channels? Are customer issues being resolved promptly and fairly?

### Efficiently resolving chargebacks

Having sufficient chargeback counter-claim evidence to present to a credit card bank is crucial. A/P's investigation needs to identify the reason for the dispute and turn up all related invoices, shipping receipts, order confirmations, transaction logs and customer correspondence. And it needs to get done by the card-issuing bank's deadline.

But if possible, it's easier and less expensive to resolve the dispute directly with the customer through open communication, and offer alternative solutions like a refund, product replacement or credit.

If you're getting a high volume of chargebacks, or complex disputes are taking your team away from other important tasks, you may consider looking into a chargeback management software vendor.

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# Payroll News Briefs

## Stories You Might Have Missed

### Certain errors on Form W-2 won't lead to penalties, according to final IRS regs

January 16, 2024

Low-dollar-amount errors that appear on Form W-2 won't lead to penalties. That's the official word contained in final regulations from IRS.

The law that prompted the IRS regs? The Protecting Americans from Tax Hikes (PATH) Act of 2015.

Thanks to the PATH Act, errors on Forms W-2 are *de minimis* if the difference between any single amount reported incorrectly and the correct amount required to be reported doesn't exceed \$100.

As for reporting the amount of tax withheld, though, the *de minimis* threshold is lower: not more than \$25.

If you find errors that fall within those ranges, a safe harbor exception to penalties will help you avoid the headache of making corrections to Form W-2.

#### Safe harbor for Form W-2

What happens if the person to whom you're furnishing the Form W-2 would prefer that you make the fixes? The regs allow an employee to make such an election.

But that must be done according to certain standards. That is, the employee must make the election in writing – on paper. The employee should:

1. clearly state that the election is being made
2. include specific contact info
3. identify which payee statements apply, but if none has been identified, the election will apply to all payee statements, and
4. provide other info required by IRS.

#### The employee must make the election before the later of these two dates:

- 30 days after the date on which the payee statement is required to be furnished to the payee, or
- October 15 of the calendar year.

Another reason the safe harbor may not apply is if there's an intentional disregard of the requirement to file timely correct information returns, IRS explained in the final regs.

The effective date of the final regs was December 19, 2023, the same date as their publication in the *Federal Register*. Furthermore, the final regs supersede Notice 2017-09 when it comes to information returns that must be filed and payee statements that must be provided on or after January 1, 2024.

### Employees need emergency savings? IRS guidance on new pension-linked accounts

January 23, 2024

IRS just released guidance on a new type of emergency savings account, created under the Secure 2.0 Act of 2022.

Employers can start offering pension-linked emergency savings accounts (PLESAs) in plan years that begin after December 31, 2023.

By way of background, PLESAs are designed to help employees deal with financial emergencies.

They're short-term emergency savings accounts that are linked to defined contribution (DC) plans, such as 401(k) plans.

Employers can make matching contributions, and such contributions should be made at the same rate as contributions to the connected DC plan.

The portion of a PLESA account balance attributable to participant contributions can't exceed \$2,500.

PLESAs are treated as designated Roth accounts – in other words, you'll withhold taxes from the contributions. However, the employee won't be taxed on withdrawals from these emergency savings accounts.

Employees can make withdrawals from PLESAs at least once a month, and the 10% additional tax on early distributions won't apply.

Highly compensated employees can't participate in PLESAs.

### Controls on matching contributions

In Notice 2024-22, IRS acknowledged that plan sponsors may be concerned about employees manipulating the rules of the plan so that matching contributions exceed intended amounts or frequencies.

Setting an account balance of \$2,500 or lower is a control that's supported by the Secure 2.0 Act.

So is establishing an order of matching contributions (i.e., matches must first go to the underlying DC plan).

But the following procedures (among others) aren't permissible, according to the IRS notice:

- requiring the forfeiture of matching contributions due to a participant's withdrawal from a PLESA
- suspending the participant's contributions to the PLESA on account of a withdrawal, and
- suspending matching contributions to the underlying DC plan.

### DOL FAQ on emergency savings accounts

The Department of Labor (DOL) also recently provided input on PLESAs. In its FAQ, the DOL discusses several topics, including contributions. We'll recap three points of particular interest to Payroll:

1. Plan sponsors can set up their PLESAs with an automatic contribution feature. But there's a specified automatic contribution percentage: It's 3% or less of the eligible participant's compensation unless the participant affirmatively elects a higher or lower percentage.
2. You should include the contributions to a PLESA when determining whether an employee has met the annual elective deferral limit for retirement plans.
3. You have limited time to remit amounts withheld from an employee's wages. You should remit the funds by the earliest date the contribution can reasonably be segregated from your company's general assets. At the latest, you have until the 15th business day of the month immediately after the month in which the contribution is either withheld or received by the employer.

## Cut payroll to stay profitable? Layoffs are surging

January 30, 2024

Less than six months ago, United Parcel Service (UPS) announced its full-time drivers would be paid \$170K per year in salary and benefits after tough negotiations with the Teamsters union. Many in business cheered the news – UPS drivers are among the best at what they do, and good news in the shipping industry historically signals good news for the economy.

Fast forward to this week: UPS announced it's laying off 12,000 workers with a stated goal of reducing payroll by \$1 billion. "2023 was a unique, and quite candidly, difficult and disappointing year," UPS CEO Carol Tomé told shareholders in a company earnings call. "We experienced declines in volume, revenue and operating profits and all three of our business segments."

UPS plans on cutting 14% of its 85,000 full- and part-time managers. And those who survive the cuts will be expected to work in the office five days a week from now on.

### Firms 'over-hired' during the pandemic

These moves by UPS mirror similar mass layoffs underway at other profitable companies over the past two months:

- Google (Alphabet) is laying off hundreds of workers in its hardware, voice assistance and engineering teams. More cuts in other areas may be necessary later this year. The previous January, the company announced it would be laying off 12,000 employees largely in sales and advertising.
- Salesforce trimmed 7,350 workers and is closing offices to reduce costs. The job cuts equal 10% of the cloud computing firm's workforce. eBay is also cutting about 10% of its employee base, with 1,000 or so workers being let go.
- Toy and game maker Hasbro announced a 20% slash in employees. About 1,100 workers got their pink slips a couple of weeks before Christmas.
- Wayfair is letting go of 1,650 people, most of them remote workers. The online furniture retailer made similar cuts 12 months ago. Wayfair CEO Niraj Shah admitted in a letter to employees that the company went "overboard with corporate hiring during COVID."

"From 2020 to 2022, everyone took advantage of access to talent, remote capabilities and access to capital at lower interest rates that created a boom of hires," says Stephanie Wernick Barker, president of the Addison Group's Mondo Staffing. "[Now] you're faced with 'did we over-invest?'"

To be fair, not "everyone" over-hired during the pandemic. Aggressive companies certainly did. Bigger companies did. But the majority of smaller to midsized companies, most of whom aren't public and beholden to shareholders, didn't take the plunge.

Even so, the purge of talent in tech, sales, marketing and management will affect businesses that aren't laying off people. Reason: Competitors will start interviewing talent on the market as resumes start pouring in. Some may even look to poach talent from companies like yours.

HR and hiring experts say companies will be very conservative on the hiring front this year. But when others zig, sometimes the smarter move is to zag. HR and hiring managers should always be looking for talent that can help boost profits.

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## DOL releases latest enforcement stats on FLSA, FMLA

February 9, 2024

Which Fair Labor Standards Act (FLSA) provision cost employers the most in back wages, according to the latest stats?

If you guessed overtime, you'd be right — by a long shot.

Overtime was about five times costlier than the other types of FLSA violations combined in FY 2023, the most recent data available.

Overall, the Dept. of Labor's (DOL's) Wage and Hour Division collected a total of \$156,152,548 in back wages for FLSA violations last fiscal year. Here's the breakdown by FLSA provision, ranked from highest to lowest dollar amount of back wages:

- \$130,686,461 in back wages for overtime violations
- \$20,866,247 in back wages for minimum wage violations

- \$4,429,962 in back wages for tip-related violations, and
- \$169,878 in back wages for retaliation violations.

**Suggested step:** Review your classifications of independent contractors. The new DOL rule that takes effect March 11, 2024, may mean some of your workers will need to be reclassified as employees — and quickly. An incorrect classification can result in overtime and minimum wage violations.

Child labor was another FLSA problem that surfaced among employers, with 5,792 minors employed in violation of the law in FY 2023, up from 3,876 in FY 2022.

The DOL collected \$8,039,728 in civil money penalties related to child labor. That's almost double from the prior year when the agency brought in \$4,386,205.

### FMLA facts

The DOL's Wage and Hour Division also provided data on enforcement of the Family and Medical Leave Act (FMLA).

In FY 2023, \$987,782 was collected in back wages. That number in the prior fiscal year was \$870,077.

Last year, the top four most common FMLA violations were:

- denial of leave – 148 compliance actions
- discrimination (disciplinary action, etc.) – 142 compliance actions
- failure to reinstate to same or equivalent position, benefits, etc. – 79 compliance actions, and
- termination – 71 compliance actions.

Much less problematic was failure to maintain health benefits.

### Industries owing back wages

Looking at all the laws enforced by the Wage and Hour Division, the industry that topped the list for back wages was construction (\$35,558,598). That was followed closely by health care (\$31,799,787) and food services (\$29,648,592).

Finally, the law tripping up government contractors the most? The Davis-Bacon and Related Acts, with 755 concluded compliance actions.

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# SOME SECTORS OF THE ECONOMY ARE IN RECESSION



## CFO Budgeting and Forecasting

# Economist's 2024 outlook: Recession will be an economic slowdown instead



by Brian Bingaman

**"E**verything we look at says that we're probably going into very slow growth in 2024 – probably not a recession," said Dan North, a senior economist for North America at Allianz Trade, an insurance and business intelligence company specializing in trade credit insurance, cash flow protection and trade risk insights.

Interestingly enough, North began his presentation during a webinar presented by Controllers Council, by saying, "There are a lot of positives working for our economy at the moment" because data shows that:

- Right now, consumers are still spending and have the income to power it, and

- For now, the labor market and services sector are resilient. Unemployment is at 3.7% and most of the 22 million jobs that were lost during COVID have since been recovered, North said. Also, the Manufacturing ISM Report on Business indicates the services sector has remained in expansion mode since 2022.

### So why all the talk about recession?

Something that could influence if what's coming will be a full-on recession or a less severe economic slowdown is the battle over the federal budget and the

national debt, with a looming March 8 deadline for holding off a government shutdown.

According to North, Congress is arguing about the wrong thing and they're missing the big picture because the debate is over defense and discretionary spending, and nobody is mentioning reform of the spending involved with the 65% of the budget earmarked for programs like Social Security, Medicare, Medicaid and income security.

The reason for that, he said, is that politicians who seriously talk about messing with Social Security tend to not stay in office long.

Meanwhile, figures from the Congressional Budget Office indicate that the budget's

## Economist's 2024 outlook: Recession will be an economic slowdown instead

"mandatory spending" portion really ramped up during the pandemic and hasn't come back down. North sounded concerned about the government's interest payments increasingly taking up a bigger slice of the budget pie and a possible 183% debt-to-GDP ratio 30 years into the future. He likened it to what would happen if the size of your mortgage eclipsed your income.

"I'm not a doomsday guy," he said, suggesting that a tax hike would be necessary to fund the seemingly untouchable two-thirds of the budget. "You can sustain high debt levels indefinitely. ... Japan, right now, has a debt ratio that's over 200%. It's a trade-off. The more debt you have, the slower the growth."

### The inflation factor

What will definitely influence whether we're heading toward a recession or an economic slowdown is inflation and what the Federal Reserve does. Things are still expensive – that's not your imagination. That's because inflation is cumulative and all the aggressive interest rate hikes will take three to five quarters (not months) from the time they were implemented to have an impact.

The headline consumer price index, which peaked at 9.1 in 2022, is now 3.1, which gave North "some degree of confidence."

The Fed's been closely tracking the core personal consumption expenditures price index, with a goal of bringing it down to 2%. Annually, it's been 3.2% year over year. However, North's analysis of recent quarter over quarter trends put that figure at a much better 2.2%, and at 1.9% when filtered by the most recent six-month increments.

"We think the Fed is probably not going to cut (interest rates) till the middle of this year. The markets tend to think it's going to be as early as March. We think that's much too soon," he said, predicting four rate cuts this year, which will have a 100-basis-point impact.

What could speed that up is if bankruptcies brought on by inflation and high interest rates reach a certain point.

### Some business sectors are in recession

While North declared us "over the inflation hump," in the meantime, interest rate hikes have put the housing market, manufacturing and freight hauling in recession mode:

**Housing:** Mortgage financing rates have soared, averaging around 7.4% right now. Existing home sales are down 37% since December 2021 (when the first rate hike happened) and home prices are about 30% above what they were before COVID. "It's going to take a while for the housing market to recover," he said.

**Manufacturing:** Of course, buying machinery or vehicles is a bear because of the cost of borrowing money to pay for them. Orders of new core durable goods fell to 2% year over year since December 2021. And in the past three months, 64% of all industrial production sub-industries have been performing in the negative year over year.

**Freight hauling:** Trucking expenditures fell by a dramatic 28% since December 2021 and import shipping container volumes are down 16.5% year over year.

It should also be noted that consumer confidence is the second lowest it's been in the last 56 years,

and the labor market is showing signs of decay. Job growth was at 1.8% in December. "How can that be? You just grew 200,000 jobs in the last month. And my response is: That's the way it works," said North, adding that job losses don't start happening until a recession starts.

### Why the slowdown isn't quite here yet

Besides the three- to five-quarter lag time on the interest rate hikes noticeably bringing down inflation, "Congress continues to spend more money and this has really stymied what the Fed's trying to do. Congress is (fanning the flames) of inflation, while the Fed's trying to put them out," North said.

In addition, the Fed announced it was leaving the current federal funds rate, which helps set interest rates for loans throughout the economy, unchanged at 5.25% to 5.5%. According to North, that's not quite recession territory yet.

Another big reason the economic slowdown hasn't happened: If you're like a lot of your peers, you smartly took on fixed-rate debt when the rates were close to 0% during the pandemic. Therefore, interest rates won't hurt you unless you need to refinance.

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# Can AI handle your month-end close?

 by Scott Ball



## DARE TO DREAM OF THE 'CONTINUOUS CLOSE'

Controllers typically don't do the same things every day. For an avid numbers-cruncher, the variety of projects and areas of the business that require one's attention helps make many aspects of the job interesting and enjoyable at times.

With the exception of the month-end close. We have yet to hear from a finance pro who says he or she enjoys closing the books at the end of the month.

Experienced controllers know it's a necessary evil. But even the most stoic of bean counters say they wish they and their team members could reduce the time spent on closing.

Case in point: Bill Hanna, aka The Financial Controller, a YouTube educator with more than 200,000 followers, estimates he spends 30% of his time reconciling his company's books for the end of the month. That's despite the fact that Hanna relies on third-party vendors for

tax compliance and payroll to help juggle all the balls in the air, and he's a firm proponent of automating processes like accounts payable (A/P), accounts receivable (A/R) and billing, wherever and whenever possible.

Would you like to reduce the time and effort needed to close the books at your organization? An obvious solution to consider is artificial intelligence (AI).

### Dare to dream: The 'continuous' close

"Accounting teams are measured by the time it takes to close the books," says Aaron Harris, chief technology officer at Sage. Harris shared his thoughts in a webinar, "Real World Accounting with AI: ROI, Benefits, and Pitfalls."

"When [finance teams] look at implementing technology,

[streamlining] the close needs to be a goal," says Harris. With automation, continuous accounting and continuous auditing, "we may soon see a day where we don't need the month close ... where all the data is current and we can trust it."

Sage polled a range of financial and fintech professionals on AI and how they'd like to put it to use in their organizations. No surprise, making the month-end easier ranked high:

*What's your top priority for implementing AI?*

- 30% – moving teams from data entry to data analysis
- 20% – streamlining month-end closing procedures
- 18% – financial reporting for forecasting
- 15% – improved A/P and A/R management
- 9% – continuous auditing
- 5% – outlier/exception reporting
- 4% – predictive cybersecurity.

### Where business leaders are right now with AI

The Sage poll also reveals how technology like automation is helping their teams now:

*Which processes in your organization are currently automated?*

- 43% – A/P
- 33% – payroll
- 33% – none

## Can AI handle your month-end close?

- 26% – A/R
- 17% – purchasing
- 16% – sales order processing
- 13% – forecasting (Chances are the number of companies using AI for forecasting is going to go up over the next three to five years. Finance pros see AI as a no-brainer for planning and analyzing data).

*When does your company plan to start utilizing AI?*

- 24% – we plan to implement AI within the next two to three years
- 24% – our company already uses AI
- 16% – we have plans to explore AI this year
- 13% – we don't intend to utilize AI
- 12% – we don't have intentions to use AI but I'm interested in learning more about AI solutions
- 11% – we will invest in and implement AI within the next 12 months.

## Go to the source and ask

The more people start to use popular AI programs like OpenAI's ChatGPT and Google's Bard, the more likely they are to notice problems.

Here's a common scenario: You ask for a summary on a topic. Multiple paragraphs of text come back in under five seconds including quotes and data. Click on the sources cited and you might not find the quotes or figures in the block of text.

Ask Chat or Bard to please cite the source of the mysterious info and it can't.

One good point in ChatGPT and Bard's favor: They quickly acknowledge any errors and apologize, which is nice. But often it either can't or won't explain where it pulled the bad info from. Or why.

Two years ago, the American Accounting Association put the then-latest version of ChatGPT to the test against accounting students:

"Using data from 14 countries and 186 institutions, we compare[d] ChatGPT and student performance for 28,085 questions from accounting assessments and textbook test banks. As of January 2023, ChatGPT provide[d] correct answers for 56.5% of questions and partially correct answers for an additional 9.4% of questions. When considering point values for questions, students significantly outperform ChatGPT with a 76.7% average on assessments compared to 47.5% for ChatGPT if no partial credit is awarded and 56.5% if partial credit is awarded. ... [W]hen providing a reference, [ChatGPT sometimes] generates a real-looking reference that is completely fabricated ... the work, and sometimes authors, don't even exist."

To be fair, maybe the latest version of ChatGPT can match up with human accountants better now. We decided to ask Perplexity AI, which is drawing praise from coders and fintech pros, for an honest appraisal of its abilities:

*Can you handle continuous financial closes for my company?*

Perplexity: *Handling the closure of a company involves various financial considerations, such as the impact on employees' 401(k) accounts, the reporting of discontinued operations in financial statements, and the potential options for filing bankruptcy.*

*... From an accounting perspective, discontinued operations refer to parts of a company's core business or product line that have been divested or shut down, and specific reporting rules apply under generally accepted accounting principles (GAAP) ... in summary, handling continuous financial closes for a company involves ensuring accurate and complete financial reporting and may also encompass considerations related to employee benefits, accounting for discontinued operations, and potential bankruptcy proceedings.*

Sounds like Perplexity confused the month-end close with shutting down a business. To clarify, we asked: *Can you calculate real-time cash on hand if we give you the data?*

Perplexity: *Calculating real-time cash on hand involves analyzing the cash flow of a business to determine the amount of cash and cash equivalents generated or spent over a specific period.*

We then hit on the right question to get an answer for this article's title:

Perplexity: *Using Perplexity AI to assist with your month-end close process can potentially save your team around 20-40% of the time typically spent on this task. This estimate is based on the potential for streamlining and automating the financial close process, as well as the ability to provide relevant and accurate responses to queries.*

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## Need to keep a master Excel worksheet template? Here are some pro tips from a CPA

If you plan to save an Excel worksheet template that you know you'll re-use (e.g., an income statement), be aware that it's not quite the same process as saving a workbook template.

For example, when saving, by default Excel changes the path to your Custom Office Templates folder for workbook templates, but not for worksheet templates.

Here's how CPA David Ringstrom demonstrated saving a worksheet template in [an on-demand LearnExcelNow workshop](#).

When your template is formatted the way that you want it, click on File and Save As, then click on the downward arrow in the "Save as type" window (the second one in the right column) and select "Excel Template (\*.xltx)."

To save your worksheet as a template that can be imported into other workbooks, you need to insert what Ringstrom described as a "Microsoft shortcut" into the file name before the title of your file name. Type in %appdata%\microsoft\templates, then click Save. The shortcut is not case sensitive.

But if you need to save a worksheet as a template that's already part of another workbook, that involves a slightly different set of steps. From File/Save As:

- Either click Browse in the left column, or in the right column click on the green, underlined "More options," or you can click on the folder name in the right column. These take you to the Save As dialog box.
- In the "Save as type" options, choose "Excel Template (\*.xltx)." You may have to add the %appdata%\microsoft\templates shortcut before the file name.
- Press Enter to save.

### Inserting your Excel worksheet template

To insert your worksheet template into a fresh workbook, right-click on any sheet tab, select "Insert," choose the worksheet template that you want (your templates will show up under the General tab of the Insert dialog box) and click OK. You'll notice that the tab name changes to the title of your worksheet template.

Bonus tip: If you realize that you need to insert a worksheet template that you're looking at into yet another workbook, right-click on the current sheet tab with your template and select "Move or Copy." In the Move or Copy dialog box, in the "To book" window, select "(new book)." Don't forget to check the "Create a copy" box before clicking OK. If you don't, Excel will move your worksheet template to a brand new workbook and it will disappear from the workbook you're working on.

## CFO Benefits

# Re-evaluating the ROI of your health and well-being program? Experts say do these 3 things



by Brian Bingaman

## COST MANAGEMENT, EMPLOYEE HEALTH OUTCOMES AND ENGAGEMENT ARE TOP CONCERNS



**T**here's a Great Re-evaluation going on among your peers when it comes to health and well-being program benefits.

That's the consensus of industry experts from wellness program provider MOBE, insurance company Willis Towers Watson (WTW) and management consulting company Aon.

During the pandemic, many employers made strategic benefits moves to support the rising demands and unique needs of their workforce. But since then, new business challenges have emerged, such as inflation, rising healthcare costs (the average amounts that employers will pay for health care

this year will be 8.5% higher than last year, according to Aon), and the greater availability of pricey specialty drugs.

When the audience attending a webinar presented by BenefitsPro was asked in a poll question what the primary driver is for the current re-evaluation of their company's health and well-being programs, here's what they said:

- Cost management (34%)
- Lack of improved employee health outcomes (30%)
- Declining employee engagement (27%)
- Vendor dissatisfaction (6%), and
- Other (3%).

### Analyze health and well-being program costs

Step one of the Great Re-evaluation is identifying exactly what's driving the costs of your health and well-being program.

What does the demographic makeup of your workforce look like (for example, are your Boomers staying or retiring)? Do they require higher-cost, condition-specific care for cancer, cardiovascular disease, diabetes, musculoskeletal disorders or mental health conditions? Is anyone using those notoriously expensive GLP-1 medications for diabetes management that many people are also using to lose weight?

## Re-evaluating the ROI of your health and well-being program? Experts say do these 3 things

"You still have to address all of these services. But then maybe we start to micro-segment by generation," Regina Ihrke, the health, equity and well-being leader for North America at WTW, said during the webinar. "It depends on the average age of your population if maternity is on or off the list of high-cost claims."

Are there any healthcare services that are being overutilized and driving up the costs? Are preventive care services being underutilized, which tends to lead to more costly care down the road?

Kristen Grady, the health transformation team vice president for Aon, commented that putting a health and well-being program in place and hoping for the best is the wrong approach for employers prioritizing cost management.

"The good news is that there's a ... controllable component to all of this. ... From what we've seen in the data, there hasn't been a rebound [in] preventive screening rates from the pandemic that we would have hoped to have seen by now. ... How much of that spend ... is in cancers that have preventive screenings that are recommended? How can we dig in there and encourage people to get those screenings earlier, so [providers are] catching cancers sooner and controlling that cost as much as you can?" she said.

According to Ihrke, hospital and health system contracts will lead to "significant increases" in the cost of services over the next two years. "The hospital systems are still recovering from the financial distress of COVID. ... If you ask any carrier, they would say they expect hospital contracting to be at least a 20% increase," she said.

Employers need to be asking, "How do I continue to steer [employees]

to the appropriate [care], either through high performing networks [or] Centers of Excellence. ... Also, how do we continue to leverage ... virtual care?"

### Get relevant data from your vendors

To answer most of the previously mentioned cost management questions, you'll need data from your health and well-being program team. This includes hard data, like claims, and soft data, like employee surveys.

Your carrier has data that measures the impact of care, shows what's working and what isn't, and provides indicators for how utilization of services may be changing. For instance, wouldn't you want to be financially prepared if a lot of employees were being prescribed GLP-1s?

"One of the pieces that we don't see as much, interestingly enough, is ... utilization of [pharmacy benefit management] data," said Ihrke.

Grady recommended using time-based metrics – every 12 months, 18 months and three years – to track the ROI of your health and well-being program.

"You create a measurement strategy, documenting this partner was put in to target this population and fill this need. Reminding yourself of that, I think, can be just really valuable ... creating the specific metrics for those specific partners," she said.

### Analyze engagement with your program

"With rising costs, employers are doubling down on

engagement" with their health and well-being program, said Bria Gali, vice president of alliances and consultant relations for MOBE.

The key drivers of employee utilization are:

- Awareness of what the program offers
- Accessibility to care
- Personal needs and interests, and
- The employee experience (they feel like they're getting something out of it).

Grady commented that program engagement has a lot to do with company culture. "Employees can have things that they really want to use, or think would make a big impact in their health or their behaviors, but if the culture of the organization doesn't support engaging in those solutions in a way that makes sense for employees, then nobody's going to use them," she said.

So what's your strategy for responding to employee health and well-being needs and preferences? For example, do you have employees with young children or who are caring for elderly parents?


Coming up with a strategy will likely require collaboration with your HR and Benefits people, who are skilled at asking for feedback from your company employee resource groups/business resource groups and compiling surveys that measure employee sentiment.

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## CFO Payroll

# New independent contractor rule throws spotlight on minimum wage, overtime pay

 by Jennifer Weiss

**T**he Department of Labor (DOL) finalized a rule making independent contractor classifications tougher and throwing the spotlight on minimum wage and overtime pay.

The final rule is scheduled to take effect March 11, 2024.

At that time, employers will need to follow a six-factor test to determine a worker's status as an independent contractor or employee under the Fair Labor Standards Act (FLSA).

Of course, if you determine someone is an independent contractor, you won't need to pay that person minimum wage and overtime under the FLSA.

Failing to make the right call, though, can mean you'll owe back pay and penalties.

"This rule will help to ensure that workers who are employees are paid the minimum wage and overtime due them," said Jessica Looman, the administrator of the DOL's Wage and Hour Division.

### Who's an independent contractor?

As the final rule puts it, independent contractors are workers who aren't economically dependent on employers for work and are in business for themselves.

The key question is: What factors should an employer use to determine that a worker isn't economically dependent



and is therefore an independent contractor?

In 2021, the DOL put a five-factor test in place, with an emphasis on two core factors.

You can say goodbye to that standard.

The DOL is returning to a totality-of-the-circumstances analysis of the economic reality test.

Plus, the DOL has added a factor back in, making it a six-factor test once again.

Here are the six factors, contained in the final rule issued January 10, 2024:

1. Opportunity for profit or loss depending on managerial skill.
2. Investments by the worker and the potential employer.

3. Degree of permanence of the work relationship.
4. Nature and degree of control.
5. Extent to which the work performed is an integral part of the potential employer's business.
6. Worker's skill and initiative.

### A closer look

It's worth noting that after the DOL released the proposed rule in the fall of 2022, it received about 55,400 comments. A sliver of those comments led the DOL to make changes before issuing the final rule.

Here's a closer look at the coming requirements, as written in the 106-page rule:

## New independent contractor rule throws spotlight on minimum wage, overtime pay

**Factor #1:** To decide whether a worker has the opportunity for profit or loss depending on managerial skill, the DOL has provided a non-exclusive list. Employers can consider whether the worker:

- determines or can meaningfully negotiate the charge or pay for the work provided
- accepts or declines jobs or chooses the order and/or time in which the jobs are performed
- engages in marketing, advertising or other efforts to expand their business or secure more work, and
- makes decisions to hire others, purchase materials and equipment, and/or rent space.

This factor was one of the core factors in the 2021 independent contractor rule. Under the new 2024 rule, it's equal among all the others.

**Factor #2:** When looking at how the investments of the worker compare to the potential employer's investments, it's not only dollar value or size that counts. Rather, employers should examine whether the worker is making similar types of investments, even if they're made on a smaller scale.

Note: DOL decided that investments by the worker and the potential employer is something distinct from the above factor (hence the return to six factors).

**Factor #3:** If the work relationship is indefinite in duration or continuous, that weighs in favor of the worker being an employee. On the other hand, you're more likely to have an independent contractor situation when the work relationship is definite in duration, non-exclusive, project-based or sporadic.

**Factor #4:** When assessing nature and degree of control, employers can continue to look at scheduling, supervision over the performance of work and the worker's ability to work for others. But now this factor will carry as much weight as any other factor.

Other relevant details include whether the potential employer:

- uses technological means to supervise the performance of the work (such as by means of a device or electronically)
- reserves the right to supervise or discipline workers, or
- places demands or restrictions on workers that don't allow them to work for others or work when they choose.

One point of clarification the DOL made from the proposed rule has to do with compliance efforts. Ensuring compliance with a law or reg – whether on the federal level or another level – may be unavoidable if it's a legal obligation. However, be careful not to cross the line into insisting on your own compliance methods or standards (quality, safety, customer service, etc.). Otherwise, you may end up with an employer-employee relationship.

The DOL cleared up the section of its proposed rule that dealt with costs imposed by potential employers. Commenters expressed to the DOL that these costs could appear to be capital or entrepreneurial in nature. However, costs that are unilaterally imposed aren't indicative of a worker's capital or entrepreneurial investment. So, there's no push toward independent contractor status with this.

**Factor #5:** To better understand the economic reality of the relationship, employers should examine the

extent to which the work performed is an integral part of their business.

The scales tip in favor of an employee when the work performed is critical, necessary or central to the potential employer's principal business. If the opposite is true – that the work isn't critical, necessary or central to the potential employer's principal business – the scales will tip toward the independent contractor status.

**Factor #6:** Bringing a specialized skill to a job doesn't necessarily indicate whether someone is an independent contractor or an employee. The issue is whether that skill is used in connection with a business-like initiative. If so, this factor would lean in favor of an independent contractor classification.

In the case where the worker doesn't use a specialized skill or the worker is dependent on training from the potential employer to perform the work, that indicates an employee relationship.

In addition to the above six factors, DOL notes in its final rule that other factors may be relevant in making a determination about someone's employment status.

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# How can we avoid getting dinged by an IRS audit this tax season?

**Q:** I heard that the Inflation Reduction Act has earmarked something like \$80 billion for the IRS over the next 10 years and they'll be spending a big chunk of those funds to hire more auditors. What will these auditors be looking for and what should we be doing proactively in case there's an IRS audit?

**A:** You're smart to be thinking about this right now. According to attorneys Tom Cryan and Spencer Walters of the Washington DC firm Ivins, Phillips & Barker, the expanded roster of IRS auditors won't just be targeting large companies. Even small businesses need to be prepared for an employment tax audit.

Identifying and correcting issues prior to an IRS audit can significantly reduce the risk of potential penalties and unexpected tax assessments.

Since the IRS audit cycle typically trails by two to three years, auditors will be scrutinizing COVID-related tax issues. A good place to start double-checking whether your organization will withstand an IRS audit is how you applied the Employee Retention Tax Credit against your payroll taxes and if you deducted payroll taxes correctly for remote workers.

The IRS will also be focusing on correct classification of workers, accountable plan issues, employer-provided vehicles and the personal use of corporate aircraft.

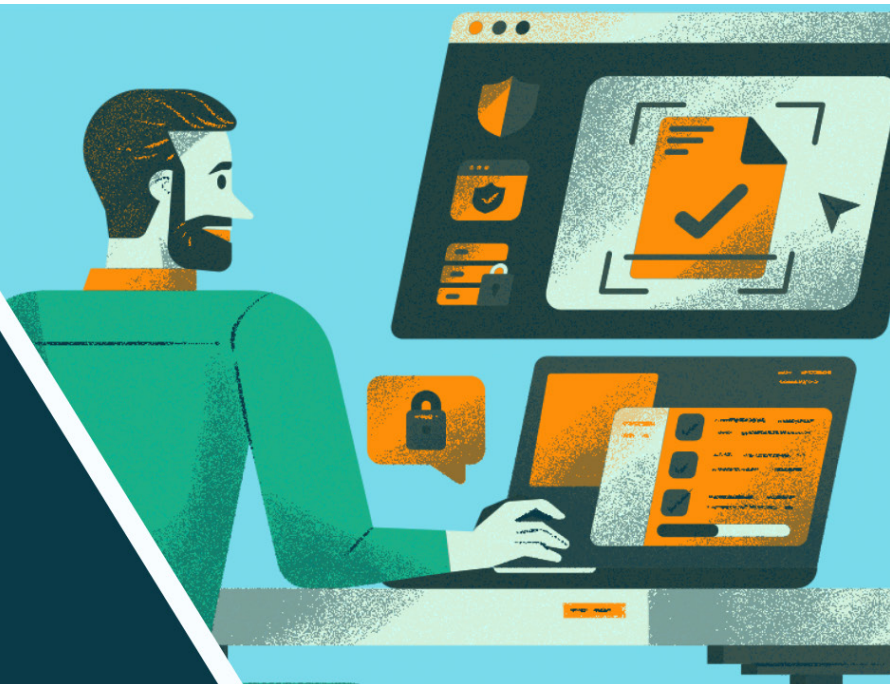
Cryan and Walters said that because these issues tend to touch multiple departments within companies, they recommend conducting an internal comprehensive employment tax audit that includes structured meetings for identifying potential problem areas and where compliance can be improved.

These audits are a great tool for identifying and correcting issues concerning payroll taxes, tax information reporting, fringe benefits and executive compensation prior to an IRS audit.

# Ransomware payouts are plummeting: How companies are reducing their risks

 by Scott Ball

## RISK EXPERT EXPLAINS THE TREND



**A** mere five years ago, 85% of companies being extorted by ransomware attacks paid up. The costs of not being able to do business and endangering customers' private data were just too high not to.

Not anymore: Only 29% of companies paid out ransom to malicious hackers in the last quarter of 2023, according to Coveware, a ransomware first recovery responder. The average ransomware payout also dropped by 33% from the third quarter of last year to \$568,000 in Q4.

Professional services (22%), health care (14%) and government (11%) are the top three targets for ransomware attacks. Small companies with 1 to 100 employees

(31%) and midsize firms with 100 to 1,000 workers (31%) are most impacted.

### Threat actors don't hold up their end of the bargain anymore

Once upon a time, there was some honor among cyberthieves. After locking up a company's system, the typical threat actor (TA) would provide the encryption keys to unlock it after getting his/her money. The TA also would delete company data, as promised.

Those days are long gone, says Emil Isner, president of data breach for Dauntless Discovery, which specializes in law firm

electronic discovery services. "Some TAs will sell a company's data to other TAs while they're negotiating with the company. Then a few weeks or months later, the same company's dealing with a second ransom attempt."

Those experiences have led to companies saying "[the TA] isn't going to erase our data, so why pay?" says Isner. "Which unfortunately is true in many cases – paying ransom won't necessarily end the threat."

A few years back, a TA shut down a healthcare provider's system and demanded a payout. The provider refused to pay. So the TA got creative and contacted patients, telling them their provider was willing to let their protected

## Ransomware payouts are plummeting: How companies are reducing their risks

health information (PHI) be sold on the dark web.

Suffice to say, angry patients let the provider know they weren't too happy about it. They demanded the provider take action to protect their PHI.

### Companies are coming out ahead due to one smart move

The drop in companies paying ransom is only partly due to TAs not doing as they promise.

"Companies are [also] doing a much better job of backing up their data in more than one place," says Isner. "They've learned from other companies' experiences.

"Now if a company's attacked, it can see exactly what the TA has. If the TA's got basic customer data, just a slice of the pie, maybe the company doesn't meet the TA's demand. But if a TA gets a hold of a company's trade secrets, the company might lean toward paying the ransom.

"These aren't easy decisions for any business," says Isner. "There are always risks to not paying, so it's a matter of weighing the risks and moving forward. There's no question, redundancy in data is such an important step for companies to take."

### And let's give law enforcement its proper due

One other factor helping companies that are hacked and service providers like Dauntless Discovery is the work of law enforcement.

"Police and government agencies are sharing info more quickly and cooperating with each other," says Isner. "The FBI and Interpol will work

together to figure out where a TA is located and try to go after it."

The FBI frequently warns businesses not to be complacent. Hackers are always changing their tactics to stay ahead of companies' cybersecurity measures. For example, ransomware pirates attacked MGM Resorts in Las Vegas last year. The attack made guests' room keys inoperable and made it impossible to use cards to play slot machines.

### \$1 billion paid out in ransom to hackers in 2023

While it's true that most companies are doing a much better job of backing up data and avoiding having to pay attackers, the threat of ransomware is still very serious. Several reports note that TAs are demanding higher payouts than five years ago and earlier.

For example, a TA might demand \$5 million off the bat from a company that generated \$15 million in revenue the previous year. The company might be able to negotiate the ransom down to an amount it can (barely) afford to pay. Or it might not. TAs appear to be getting greedier all the time in addition to not fulfilling the promises they make to victims.

Cryptocurrency tracing system Chainalysis reports that TAs hauled in a record \$1.2 billion in ransomware last year. Chainalysis notes that TAs "intensified their operations, targeting high-profile institutions and critical infrastructure, including hospitals, schools and government agencies."

The higher ransom amounts contributed to the rise in total money (TAs' preferred payment type is crypto such as Bitcoin). So did a rise in the number of gangs

attempting to extort businesses and government, says Chainalysis.

No wonder that 75% of IT professionals fear a well-honed ransomware attack could put their organizations out of business, according to a Datto report. Small businesses may assume they'll fly under TAs' radar but they may be most at risk due to limited IT staff and budgets.

**Bottom line:** As cybercriminal gangs grow and become more ruthless, businesses will need to strengthen their defenses. For help, the FBI lists a number of steps companies can take to improve their cybersecurity at its website.

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## Meet Our Editors



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Brian researches and writes about accounts payable, Finance technology and CFO management trends. Brian brings nearly 20 years of journalism experience to the *Resourceful Finance Pro* team.



### Scott Ball

Scott is a Senior Staff Writer for *Resourceful Finance Pro* with more than 20 years of experience writing for business professionals. He wrote for the trade publications *CFO & Controller Alert*, *Facility Manager's Alert* and *Environmental Compliance Alert*.



### Jennifer Weiss

Jennifer keeps readers current on Payroll news, covering topics such as employment taxes, fringe benefits and the Fair Labor Standards Act. She brings over 20 years of experience to the *Resourceful Finance Pro* staff.

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