

RESOURCEFUL FINANCE PRO

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October 2022

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Studies say C-suite burnout is setting in: Time to audit the well-being of your fellow execs... **15**

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CFO News Briefs

Stories You Might Have Missed

Happy National Payroll Week! What are you doing to celebrate your Payroll talent?

September 8, 2022

Think about what life would be like if you and your employees didn't get paid correctly and on time each payday. National Payroll Week 2022 is Sept. 5-9, and it's the ideal time to show appreciation for the people that take care of one of the most critical areas of your business – payroll.

[Read more](#) 

Family work/life balance benefits a top priority for winning the war for talent in 2023

September 12, 2022

Your peers feel there's a return on investment (ROI) for investing in family-friendly benefits that contribute to employees' work/life balance. That's according to an employer health and benefits strategies survey by Mercer.

In this case, "family-friendly" means perks designed to support employees who are building and nurturing a family, as well as employees who are caregivers for older family members.

[Read more](#) 

Choosing the right commercial banking partner for your business

September 13, 2022

If you're considering shopping around for a new commercial banking partner for next year, it may be because you need a banker that delivers value beyond simply managing your business's finances.

Maybe you've sent out some requests for proposals to different institutions that offer commercial banking products and services. But did they respond with thoughtful follow-up questions about your organization's unique needs for operating successfully?

[Read more](#) 

What the new proposed DOL overtime rule could mean for you

September 14, 2022

The Dept. of Labor (DOL) is still thinking about updating FLSA overtime rules affecting executive, administrative and professional employees.

Based on the Biden administration's regulatory agenda released on June 21, 2022, several reports indicate the DOL's Wage and Hour Division is planning a Notice of Proposed Rulemaking for October.

[Read more](#) 

From “persistent” to “aggressive” – the red line Accounts Receivable doesn’t want to cross

September 15, 2022

Collecting outstanding debts and maintaining cash flow all comes down to the persistence of you and your Accounts Receivable (A/R) team members.

Being seen as “persistent” in your industry is the ideal spot you want to be. On the other hand, being perceived as “aggressive” by customers late to pay a bill can open a legal can of worms you and your company don’t need.

[Read more](#) 

Will Congress agree to double jail sentences for unlicensed money transfers?

September 20, 2022

Good news: The Justice Department is finally recommending stiffer penalties for cyber-criminals that target companies’ coffers.

The Justice report to Congress, “The Role of Law Enforcement in Detecting, Investigating, and Prosecuting Criminal Activity Related to Digital Assets,” recommends doubling the maximum prison sentence for unlicensed money transmitting from five years to 10 years.

[Read more](#) 

How to prevent being sued because your employee handbook is out of date

September 21, 2022

Your employee handbook needs to do more than put your company’s benefits, policies, procedures and culture in writing. It also must stand up in court if a lawyer for a disgruntled employee starts to drill down into it.

For instance, did you know that if your employee handbook doesn’t have an at-will disclaimer in it, a terminated employee could sue because he or she can claim they thought their handbook was an employment contract?

[Read more](#) 

Payment delay? The problem could be a lack of communication

September 27, 2022

Finance departments need to know what’s going on across the organization. Yet all too often communication channels clog up, with one important team being the last to know important info.

And that’s A/R.

Picture this: Your A/R point person calls up a new customer whose payment is coming due. He discovers the customer’s order arrived two weeks late due to an error by your Fulfillment department. Unfortunately no one in Fulfillment let your staffers know about the failure to deliver on time. Guess who ends up looking like the bad guy in this situation?

[Read more](#) 

If you use E-Verify, these 2 posters must be displayed

September 28, 2022

Using the federal government's E-Verify program to confirm that new hires are eligible to work in the U.S. isn't required by law. But according to employment law expert Dr. Jim Castagnera, businesses like yours have taken a liking to it, and it may one day become the universal standard for employers.

That's why it's important to note that if you participate in E-Verify, you're required to let all employees and prospective employees know about it by displaying these in a clearly visible place:

- "This Organization Participates in E-Verify" poster, and
- "If You Have the Right to Work, Don't Let Anyone Take It Away" poster.

[Read more](#) 

Spotlight on inflation: CFOs are rattled by higher costs & bearish on growth

September 29, 2022

CFOs' view of the economy and their companies' growth outlook over the next six months took a dive as summer faded into autumn.

Rising prices are to blame, according to the latest CFO Survey by the Richmond Federal Reserve and Duke University's Fuqua School of Business. Companies experienced a 7.3% increase in the core Producer Price Index (PPI) because transportation, warehousing and distribution prices surged. Keep in mind the PPI doesn't include food and fuel prices, so that 7.3% figure is a tad misleading.

[Read more](#) 

Inflation giving you headaches? Cultivate a cash-centered culture at your company

September 30, 2022

Because inflation's forced the Fed to raise interest rates, making the cost of capital higher, it's mission-critical to carefully manage the cash your company has on hand to avoid going outside your own cash flow for working capital.

That's the word from consultant, author, former CFO and self-described conservative accountant Carl L. Young.

[Read more](#) 

Employees planning for retirement? Here's what they need to answer

October 4, 2022

When a person asks, "How much money will I need in retirement?" the only honest way to answer is with, "It depends."

What's most helpful is steering the person's thinking in another direction so they can take honest stock of their finances before it's too late.

[Read more](#) 

Mitigate the risk of losing a vendor: More vendors in danger of going under

October 10, 2022

The coronavirus pandemic reinforced lessons that experienced CFOs knew but might have taken for granted. For example: You're better off not relying too heavily on one vendor for critical company needs.

You never know when a vendor may be in danger of changing hands to an owner you don't know or going out of business altogether.

[Read more](#) 

A/P News Briefs

Stories You Might Have Missed

Vendor maintenance boxes to check off for less stress this year-end

September 19, 2022

With the first official day of fall almost here, your Finance team needs to start getting ready for year-end. And a good place to start is ensuring you're submitting accurate info to IRS about your independent contractors and that they receive all important tax documents.

One of A/P's crucial year-end projects is making sure Form W-9 information and 1099 status for each of your vendors are up to date.

[Read more](#) 

3 steps to reducing A/P's B2B late payments now

September 20, 2022

B2B late payments can be a potential major pain point for your company, leading to late fees, missed opportunities for early payment discounts, duplicate payments when a vendor sends a second invoice for the same bill and other problems.

Research shows a notable number of A/P pros are struggling with B2B late payments. A recent report from Deloitte found 30% of mid-size businesses are having issues with long payment processing cycles, taking an average of 30 days to complete a payment.

[Read more](#) 

6 tips to help Finance staffers regain their focus to tackle year-end prep

September 26, 2022

Cooler temperatures and falling leaves are signs that the countdown to year-end is on for your Finance team.

The transition from thinking about vacation getaways to tax filing deadlines will happen slower for some. But if you start noticing a drop in productivity or a dip in enthusiasm from your people, it may be time to change things up.

[Read more](#) 

Business travel update: New per diem rates, high-cost locality updates from IRS

September 27, 2022

Alert your A/P team: IRS has new special per diem rates for business travelers, effective Oct. 1, 2022, through Sept. 30, 2023.

Notice 2022-44 lists the new rates, which you can use to substantiate the amount of expenses for lodging and meals and incidental expenses (M&IE) for your road warriors, instead of reimbursing actual travel expenses based on your employees' records and receipts.

[Read more](#) 

Electronic payments come with different advantages, disadvantages

October 3, 2022

To accommodate the needs of as many vendors as possible, your business may need to use a combination of electronic payment methods.

Electronic payments are a win-win. Your vendors will love that they can get paid faster and your CFO will appreciate that they cost less than generating and mailing paper checks. AFP estimates that issuing paper checks costs a median price of between \$2.01 and \$4 per check.

[Read more](#) 

Upcoming Events

Free Webinars

Thursday,
November 10th
2022



All Aboard the Management Reporting Train

sponsored by **workiva** [learn more](#)

Tuesday,
November 15th
2022



Looking to the Future: Planning During Economic Uncertainty

sponsored by **insightssoftware** [learn more](#)

FREE ESG INSIGHTS FROM **EISNERAMPER**



What the Inflation Reduction Act Means for ESG and Sustainability

What the Inflation Reduction Act Means for ESG and Sustainability

Government handing out money for ESG and sustainability

Learn more about its provisions and whether or not you may qualify for cash or tax credits in this free whitepaper.

It outlines the key takeaways of the IRA for corporations and investors as it relates to ESG and sustainability, including:

- Tax credits for renewable energy
- Funding for high-carbon industries
- Funding for GHG emissions reporting
- Grants for climate resilience and adaptation

[get the guide](#)

Company credit cards got business expense management under control

Staffers were starting to rack up reimbursable business expenses, including mileage, meals and lodging.

To reduce the amount of time A/P was dedicating to processing and substantiating expense reports, receipts and invoices for these business expenses, we decided a credit card program was the way to go to simplify expense management.

There were way more pros than cons to having credit cards, including:

- Paying for business expenses without requiring employees to use cash or their personal credit cards, or waiting to be reimbursed
- Accurate, non-inflated expense reporting
- Centralized expense tracking on a single credit card statement, which takes the stress out of reconciling multiple business expense reports
- The ability to set custom spending restrictions and limits for each cardholder to prevent the risk of rogue spending
- Visibility into employee spending patterns, which our controller can analyze for savings opportunities, and
- Potential for the organization to earn cash back rewards – just for doing business.

Finding a credit card banking partner

When we started looking at banks that issued business credit cards, some criteria that set the best ones apart from the rest of the pack included:

- special reward perks, such as introductory rewards, anniversary rewards or hotel rewards
- low or no annual fee (The better the rewards program, and the more features and benefits the card comes with, the higher the fee tends to be.)
- low interest rate, and
- fringe benefits, such as discounts, travel benefits and protections, and account management tools that export data to our accounting software.

The card we chose had rewards and features that fit our organization's spending style at a cost the controller was most comfortable with paying.

New way of doing business expenses

Then, we trained our employees on card use, including instances when they'd have to produce an itemized receipt to substantiate the business purpose of an expense and a review of our T&E policy definitions of what's



Company credit cards got business expense management under control

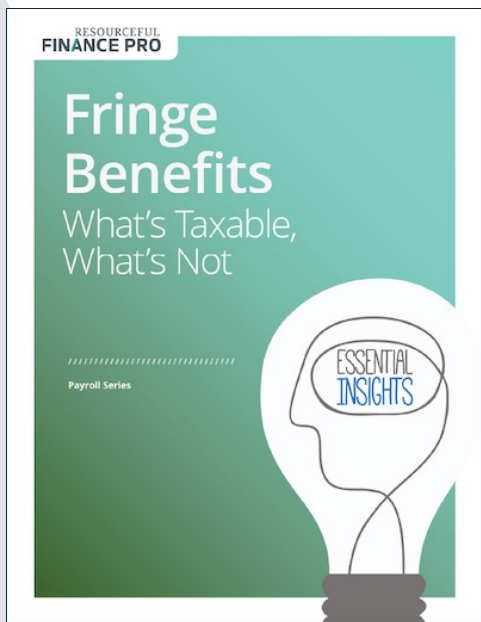
a business expense and what's a non-authorized personal expense.

At first, we had to actively encourage our people to use their company cards for business expenses. But once they realized it was a time-saving alternative to providing paper documentation with amount, date, time and place to A/P every time they paid for something out of pocket, we got the buy-in we were looking for.

The credit card program boosted employee morale, and the streamlined expense management freed up A/P to work on other projects.

*(Deb Turner, Staff Accountant,
Peabody Retirement Community,
North Manchester, IN)*

[Read more Case Studies in your Membership Dashboard](#)



Exclusive Finance Pro Guide

Fringe Benefits: What's Taxable, What's Not: 21 Must-Know Regs And Updates *Part of the Payroll Series*

Handling fringe benefits is a headache even for the most experienced finance pros.

Why? In the realm of employer-provided benefits, few areas are as complicated.

Whether you're providing educational assistance or just giving away tickets to a game, fringe benefits run a wide gamut.

How can you **ensure you're taxing and excluding the right fringe benefits** in the eyes of IRS, providing the necessary documentation and complying with the glut of IRS requirements to avoid penalties?

Get ***Fringe Benefits: What's Taxable, What's Not: 21 Must-Know Regs and Updates***

[get the guide](#)

Study says 85% of companies are having payroll technology issues: Would an upgrade help?



by Brian Bingaman

Modern cloud-based solutions empower Payroll pros with key data, make compliance easier, enable on-demand pay

It's easy to take your company's payroll technology for granted – until it becomes obviously outdated. That's why it may be time to evaluate whether the processing system you have in place will be able to grow with your business.

Payroll continues to evolve from a back office function to a strategic Finance function – identifying trends and sharing key insights to resolve critical issues. But in many cases, the payroll technology many of your peers are working with doesn't quite have the capability to keep up with this shift.

A whopping 85% of organizations are experiencing some kind of challenge or limitation related to their payroll technology, according to Ceridian's "Future of Payroll Survey," which was conducted in partnership with the American Payroll Association and the Global Payroll Management Institute. Some eye-opening findings from the report include:

- 39% of respondents said their current tech lacks features they need
- 25% said they don't have the right tools to properly analyze valuable, strategic data, such as labor costs, absenteeism rates, salary ranges and pay benchmarking to ensure employees are getting market rate pay
- As a result of data silos, almost one in three companies don't actively track payroll key performance indicators, such

Study says 85% of companies are having payroll technology issues: Would an upgrade help?

as pay accuracy, on-time delivery of pay, time to process and commit payroll, overall payroll costs, average cost of producing a payroll payment and days to produce retroactive pay corrections

- 37% weren't using the full capability of their software
- 34% said their payroll technology has repetitive processes and requires too much manual effort, and
- 43% named compliance as their biggest payroll pain point.

Vulnerable to disruption

If a pandemic, hurricane, flood, earthquake, wildfire or tornado were to bring things to a grinding halt in your area, would you still be able to run payroll? For a surprising number of businesses, the answer is "well, that depends ..."

Just 54% of businesses surveyed are using cloud-based technology to enable payroll processing from anywhere – meaning roughly half of responding organizations aren't using best-in-class technology to empower their payroll functions and professionals.

When asked via Zoom if those numbers were due to application security and data management concerns, Lisa Weckman, the senior director of product management at Ceridian, said that's understandable.

However, she said, the players in the payroll technology market are heavily investing in advanced technology that also includes enhanced security measures to minimize data breaches, such as third-party testing, active

monitoring and role-based security controls.

What about on-demand pay?

Nearly three out of four (71%) payroll professionals say their companies have no plans to implement earned access/on-demand pay to promote financial wellness among their employees, creating a gap between the benefits that employees want vs. what they're offered.

For example, a Ceridian/Harris Poll survey found that 78% of workers say on-demand pay would make them more likely to stay with their current employers. That indicates that employees want more from their pay experience than just self-service access.

But if your legacy payroll technology is unable to accommodate the continuous tax, retirement plan contribution and other deduction calculations involved in offering on-demand pay, recruiting and retaining top talent among the younger segment of the workforce could become a struggle.

"If employers don't start to get on board, they're going to find themselves in a situation where they're not competitive (in the current labor market)," Weckman said. "Instant access to anything is an expectation, whether it's food, whether it's media, whether it's your pay ... I'm confident that on-demand pay is going to be a critical employee engagement tool."

Modern payroll technology solutions can make calculation of earned pay for on-demand access a realistic option for your people. Pay distributions can even be

supplemented with a tax-compliant earnings statement.

Next-generation payroll technology

Besides continuous calculation of actual pay, some of the other capabilities available in modern payroll technology solutions include unified time and pay engines that calculate in real-time, and rules engines that are adaptable to a variety of custom business needs – such as being able to switch tax jurisdictions with agility as an employee works in different locations.

Weckman advised business leaders to start planning to "invest in a holistic, cloud-based payroll solution ... that can help them simplify their business process by replacing those archaic legacy systems, to help drive efficiency (and) promote (tax and labor law) compliance."

Modern solutions can provide payroll pros with more informative data to drive business growth. "There's a wealth of data in a payroll system. What's important is leveraging the power of data, and then using that data to predict and to provide insights, and to notify (Finance leaders) when (certain) situations happen proactively," she said.

But keep in mind that payroll software isn't one-size-fits-all. Some vendors' solutions are just for small businesses or large enterprises with more than 100 employees, while others are intended for specific industries. A good place to start taking a look around is the payroll software reviews section of [BetterBuys.com](https://www.betterbuys.com).

[Read this Story Online](#) 



Excel shortcuts to reduce click, hold & drag stress on your mousing hand

If you're working with lengthy columns of data in Excel, it can make your hand and wrist ache if you're repeatedly clicking on a cell, holding down the mouse button and dragging the highlight down the column.

To select a range of column cells all the way to the end of your entered data, or to the next blank row, click on the first cell in the range and press the Shift, Ctrl and down arrow buttons on your keyboard.

In addition, relative references are convenient whenever you need to repeat the same calculation across multiple rows or columns in Excel. If you copy the formula =A1+B1 from row 1 to row 2, for example, the formula will become =A2+B2. The formula you're copying changes relative to each new row location.

To avoid having to copy a formula to every single row in a column, it's possible to quickly copy a relative reference formula down a column. To do this, click on the cell with the formula you wish to copy, then hover your cursor on the green "fill handle" square in the bottom right corner. After a flat,

black, plus-sign cursor appears, double click, and the formula automatically fills down the column.

It works with Excel text formulas, too

One good example of where filling down relative reference formulas comes in handy is if you have a spreadsheet with a column of names that are all in uppercase, but you'd rather have them in the normal upper/lowercase combination.

To convert the all-caps text, in another column select a blank cell and type =prop, click on "PROPER" and after the open parenthesis that appears, type the cell with the all-caps name and press enter. (If you're using a built-in Excel formula like PROPER, you don't need to type the closing parenthesis.) To apply the PROPER formula down the column, use the fill handle, black plus-sign, double-click trick.

For more tips like these, check out the [LearnExcelNow](#) workshop "Excel Updates: New Formulas You Need to Know."

[Read more Excel Tips in your Membership Dashboard](#) 

Employee's personal info gets leaked in cyberattack: Is employer liable for risk of harm?

CFO Bill Keeper had just exited a virtual product demo from a vendor when he noticed that the office receptionist was calling his desk phone.

"This is Bill," he answered.

"Ben Hackett's here to see you," the receptionist said.

Bill's business owner friend only seemed to contact him when he needed advice on handling a crisis at his company. But this was the first time he had ever showed up at the office unannounced.

"Go ahead and send him in," Bill replied.

Ben walked into Bill's office and sat down.

"Bill, I'm really stressed out," he said. "I thought I did everything right to control the damage from the cyberattack by letting my employees know about the data breach that hit the company. I advised everybody to take precautionary measures and I even offered to pay for a year of credit monitoring."

"That's what I would've done," commented Bill. "Did any of your people get their identity stolen?"

"No, not that I know of," said Ben. "But what has me upset is I'm getting sued by an employee because there's wording in our employment agreements that states our company takes appropriate measures

to protect the confidentiality and security of employee data."

Risk of future identity theft harm

"Is she claiming breach of contract then?" Bill asked.

"And negligence, and breach of fiduciary duty," Ben replied. "The police told me quite a few of our employees' full names, addresses, Social Security numbers and birth dates were on the dark web."

"You need to talk with your lawyer," Bill said. "Ask them if the employee has to prove that a criminal opened up accounts in her name and racked up expenses."

Eventually, a judge dismissed the employee's case on the grounds that holding the company liable for financial harm from fraud that hadn't happened yet was speculation. However, the employee appealed. Was the appeal successful?

The decision

Yes. On appeal, a court overturned the decision, saying that because the employee's date of birth and Social Security number were for sale on the dark web to criminals worldwide, the risk of harm to the employee from fraud wasn't just hypothetical, but "sufficiently imminent."



Employee's personal info gets leaked in cyberattack: Is employer liable for risk of harm?

"Employers maintain massive datasets on digital networks. In order to protect the data, they must implement appropriate security measures and ensure that those measures continue to comply with ever-changing industry standards," the judge said, ruling that the employer failed to safeguard the employee's information, which it pledged to do in writing.

Publishing several pieces of someone's personally identifiable information to the dark web presents a perpetual risk of identity theft or fraud, involving personal time and funds to fix.

Because of that, the employee shouldn't be forced to wait until sustaining financial harm before taking legal action, the court said.

Analysis: Leaked info = injury

This case shows how crucial it is to ensure that company data security is up to snuff and that employees have adequate training on the security features on their company electronic devices. They also need training on how to recognize phishing, business email compromise and social engineering scams, as well as other types of cyberattacks.

If a data breach leads to employees' confidential info being leaked on the dark web, it may be too late for your company to stop damage that will take a lot of money and time to mitigate.

And if there's any kind of written promise to protect sensitive employee data, be sure you have the resources and tools

to back it up. Otherwise, it can open the door to expensive breach of contract or negligence lawsuits like this one.

Based on Clemens v. ExecuPharm Inc., No. 21-1506, US D.C. Eastern District, Pennsylvania, 9/2/22. Dramatized for effect.

[Read more You Be The Judge in your Membership Dashboard](#)



C-SUITE LEADERS NEED TO PRACTICE WELLNESS AND SELF-CARE TO KEEP THEIR COMPANY SUCCESSFUL

AVOIDING SENDING A LATE-NIGHT OR WEEKEND EMAIL

ENCOURAGE USING PAID VACATION TIME

TAKE A LUNCH BREAK OF AT LEAST 30 MINUTES

TAKING MICROBREAKS DURING THE WORKDAY TO IMPROVE FOCUS AND CLARITY

CFO POLICY AND CULTURE

Studies say C-suite burnout is setting in: Time to audit the well-being of your fellow execs



by Brian Bingaman

New data shows the Great Resignation and war for talent is leading to C-suite burnout. The pressure your peers are feeling to keep employees from walking out is taking a toll on their mental health.

Nearly 70% of C-suite executives said they're seriously considering leaving their companies in favor of a role that better supports their well-being, according to research by Deloitte and Workplace Intelligence. Compare that to 57% of the workers surveyed that are seriously considering a job change.

In addition, 81% of your fellow C-suite pros say that right now improving their well-being is more

important to them than advancing their career.

Some key contributors to C-suite burnout that the survey found:

- 95% of execs agree that they should be responsible for employees' well-being, yet 68% admit that they're not doing enough to safeguard employee and stakeholder health
- 73% report that their job doesn't allow them to take time off from work and disconnect
- One out of four said they don't disconnect because their workload would become unmanageable and almost that many (24%) are afraid

of missing important messages or emails, and

- Around one in three "always" or "often" feel exhausted, stressed, overwhelmed, lonely or depressed.

This indicates that business leaders are sacrificing their own well-being while trying to support the well-being of their workforce.

What C-suite burnout looks like

Warning signs of C-suite burnout can include the following:

Studies say C-suite burnout is setting in: Time to audit the well-being of your fellow execs

- A lot of *unplanned* 4 a.m. wake up times to start the workday or having issues sleeping more than seven hours
- Pushing through tasks even though they're visibly fatigued and stressed – a sign of an over-ambitious workload
- Certain problems keep recurring, indicating the person may not have the space, support or concentration to resolve and act on the issue
- They can't easily answer the questions "What are you doing for exercise?" or "What are you doing for fun?"
- Behavior that's out of character for that person, such as irritability, lack of patience, excessive self-criticism, blaming others, forgetfulness, etc., and
- Noticeable changes to physical appearance like weight gain or puffy eyes.

Any combination of these could be a signal that health-conscious adjustments need to be made to someone's working habits.

These warning signs could also be an indication that the C-suite as a whole needs a refresher on the importance of well-being and its impact on long-term company success. If the top brass isn't functioning to the best of their ability, every employee in your organization could potentially suffer, either directly or indirectly.

CFOs and burnout

A separate study from DataRails found that 83% of CFOs are feeling

stressed out. And outdated systems may be partly to blame.

As a result of manual overload from multiple versions of reports, fixing errors and chasing data, CFOs say they:

- spend less time with family and friends (48%)
- are dissatisfied with their job performance (37%), and
- get bored at work (31%).

If this sounds like you, it may be time to start looking at automation fintech solutions for your company as a way to boost efficiency, save time and reduce stress.

Also keep in mind that delegating some tasks to your Finance team to reduce your workload is always an option. After all, delegation is a recognized tool of effective leaders.

Culture of well-being

Other enlightening statements in the Deloitte study: C-suite leaders say that it's important for them to see other leaders taking care of their well-being (84%) and that seeing this would motivate them to improve their own well-being (82%).

Leading by example is one of the best ways to improve your workforce's culture from the top down.

Some examples to set to help turn C-suite burnout around:

- Taking microbreaks during the workday to improve focus and clarity
- Starting and stopping work at a reasonable time

- Working 40 or fewer hours a week
- Avoiding sending a late-night or weekend email
- Encourage using paid vacation time, and
- Take a lunch break of at least 30 minutes.

Another solid strategy is promoting wellness at work by encouraging:

- adequate sleep
- healthy life practices (exercise, balanced diet, etc.), and
- dedicating time to activities that provide happiness.

Not only can encouraging these behaviors boost the well-being of your leadership peers, but it can also positively impact the well-being of the rest of your workforce. This can improve employee productivity and retention rates, and reduce costly turnover. Sixty-two percent of workers would be more likely to stay with their company if it better supported their well-being, according to the Deloitte study.

Your company may already offer physical and mental health benefits, but your leadership and employees may need a little nudge to use them. It could also be time to improve or expand your organization's well-being benefits. Offering unique benefits that support all aspects of employees' lives can be key to cultivating a healthier, happier workforce by reducing burnout and stress.

[Read this Story Online](#) 



Can employee non-compete agreements cause more problems than they solve?

Q: We have a policy that every new hire signs a non-compete agreement to protect our company's investments and trade secrets. But lately we've been dealing with higher legal bills because our lawyer's been going after former employees who are technically in violation of the agreement – and the effort is not always successful. Should we consider adjusting our post-employment non-compete policy?

A: You have every right to take measures to protect your business interests. However, you might not need restrictive non-compete agreements for every single person at your company.

On his Ohio Employer Law Blog, Jon Hyman, a partner in the employment and labor law practice at Wickens Herzer Panza in Avon and Sandusky, OH, says that in some cases, a non-compete agreement can be like using a sledgehammer to kill a fly. In other words, it effectively protects employers, but can cause more damage than intended.

"Knowing that most courts only enforce such agreements as necessary to protect an employer's legitimate interest, [your lawyer needs] to determine the scope of the legitimate interest the employer is trying to protect and is entitled to protect," Hyman wrote.


If you're concerned about the theft or disclosure of company information to your direct competitors, maybe a non-disclosure agreement is a more sensible solution.

If you're concerned about ex-employees poaching your customers, vendors or other employees for a competitor, you'll want a non-disclosure agreement, plus a non-solicit contract.

But if an employee will have access to proprietary information as part of their job that would cause irreparable harm to your business if he or she jumps to a competitor, that's when you'd need a non-disclosure agreement, a non-solicit contract and a broad non-compete agreement.

Another option is tailoring non-compete agreements by position or department to protect specific company interests.

"If you don't have such an interest, forego the agreement altogether for that employee or group of employees. Otherwise, you will spend gaggles of money attempting to enforce an unenforceable agreement," Hyman said.

[Read more Ask the Auditor in your Membership Dashboard](#) 

Cash payments made to rep were never remitted to vendor: Is payer company on the hook?

A/P Manager Jenn Smith was on a video conference call with one of her company's vendors.

"I don't understand why our account is being suspended," she said to A/R manager Eddie Black.

"Because our accounting records show you owe us over \$75,000," Eddie said.

"That can't be," Jenn said. "We had such a great face-to-face relationship with your sales rep, Vince, that we started making cash payments to him. Each time we paid, he signed the invoices and noted that they were 'paid and received.'"

"Our invoices specify that all payments must be remitted to our corporate office," Eddie replied.

Vendor didn't receive cash payments

"Vince lives in our area. And until now, he's the only person from your company that we've had any contact with, so we felt comfortable with paying him directly. Are you saying he didn't turn over the money?" Jenn asked.

"Vince was fired last week, but I can't get into details," said Eddie. "As far as we're concerned, the money you owe was never paid."

"It sounds to me like your company needs to be keeping closer tabs on your sales reps. And that's not our fault. I'm looking at our accounting records right now, and they show we're paid in full," Jenn said.

The vendor filed a breach of contract lawsuit against Jenn's company for non-payment of funds owed and for violating an important payment term, spelled out in writing on the invoices, that payments are to be remitted to the corporate office.

Was the suit successful?

The decision

No. The judge dismissed the case.

In court, Jenn's company produced invoices from the vendor that were signed and marked "paid and received" by a representative of the vendor as evidence of receipt of payment. The judge also got to match the invoice amounts with internal spreadsheets from Jenn's company accounting for the cash payments.

Although the court acknowledged there was a contract breach, it said Jenn's company wasn't liable for the financial loss sustained by the vendor. Failure to send payments to the vendor's corporate office wasn't the cause of the damages here, the judge said – it was apparent theft by the fired sales rep.



Cash payments made to rep were never remitted to vendor: Is payer company on the hook?

Analysis: What does the vendor prefer?

It can be extremely risky to make cash payments to vendors because of how easily cash can be stolen. But if you do so, always ask for payment receipt documentation in case there's a dispute.

Take note that electronic payment methods from bank to bank are more secure, provide opportunities for early payment discounts and make it easier to track cash flow.

But some vendors may not be comfortable with electronic payments just yet. They may prefer checks or cash. You'll have to make sure those payments stay secure – and that you have proof they've been made.

Paying attention to the payment methods that are most preferred by your individual vendors, and their payment policies, is the way to go for good business relationships, as long as you take appropriate security precautions.

Based on Vista Food Exchange Inc. v. Comercial de Alimentos Sanchez S de RL de C.V. This case was fictionalized for dramatic effect.

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Featured Story

CFO Cost Control

Preparing for recession: Is it even necessary right now?



by Brian Bingaman



Even though economic indicators say different things, it's good to have a plan

A recent poll of your Finance pro peers had 36% preparing their organization for a recession, 25% still deciding whether they should take steps to get ready and 39% not actively preparing for economic downturn. The poll was conducted during a webinar presented by financial planning and analysis platform DataRails.

Opinions are so mixed because economic indicators are contradicting each other. For example, the U.S. GDP declined in two consecutive quarters, yet gross domestic income, which is published by the same government agency that compiles GDP, implies that the U.S. economy has been growing continuously since the end of 2021.

Also, according to the Bureau of Labor Statistics, the unemployment rate is 3.7% – just 0.2% above the 50-year low in February 2020, right before COVID-19 shook things up.

Meanwhile, the job vacancy rate is at an all-time high – 6.9%, or 11.2 million openings, as of the last business day of July. In addition, nonfarm payrolls rose by 315,000 jobs in August.

However, for Q3 2022, 63 S&P 500 companies have issued negative Earnings Per Share (EPS) guidance, compared to 40 S&P 500 companies that have issued positive EPS guidance. That's according to FactSet.

But that same report indicated that corporate earnings in Q2 2022 were

Preparing for recession: Is it even necessary right now?

strong, with three-quarters of S&P 500 companies reporting a positive EPS surprise and 70% of companies reporting a positive revenue surprise.

CNBC reported that while the economy is showing signs of slowing down, economists are divided about the risk of a recession.

Recession preparation plan

Like severe weather events, there's always a chance a recession will come along, and it's why insurance company Allianz Trade says it's smart to:

- Build a cash reserve with six to 12 months of operating expenses.
- Encourage A/R to communicate early and often with companies that owe you money. Your people need to remind these customers how important they are to your business, making sure they understand your billing practices and are connected with your team on a personal level. That way, when they pick which bills to pay first, your company's invoices will always be on top of the stack.
- Ensure payments to creditors are made on time or early if possible. This may give you some leverage if you need to renegotiate credit terms (e.g., net30 or more), push for discounted terms (e.g., a 2/10, net30 early payment discount) or expand your lines of credit.
- Thoughtfully reduce your expenses. Some moves you

can make right now include renegotiating the lease for your office space (or looking into a flexible work space), shopping for less expensive office supplies and re-evaluating what services are absolutely essential for your business to survive.

- Carefully examine your staffing needs, and make sure that any changes you make won't hinder your staff's ability to serve your customers or decrease employees' morale.
- Optimize inventory management. Talk to your suppliers and create a plan to ensure more inventory turns over so your inventory doesn't stagnate. If you've spoken to them about credit terms and can show them you have a plan, your suppliers will be more willing to work with you to ensure success.
- Secure financing before you need it. Having a good relationship with current and possible future lenders is an important strategy for supporting your working capital needs. These relationships also provide your company the flexibility to weather a recession or capitalize on opportunities. When your banker knows your company well and believes in your strategy, it can open up possibilities for business growth.

Not too late to start prepping

While planning for the unknown may be like driving through thick

fog at night, Sean March, a senior financial planning and analysis (FP&A) strategist at DataRails, said that using spreadsheet-based scenario analysis may be the key to budgeting and forecasting to help your company through a recession, even if the bumpy ride turns out to be a short one.

A strategy that he shared during a webinar titled "How Finance Teams Can Plan for a Recession" involves keeping three different planning versions (Scenario A, B and C) of spreadsheets that break down your profit and loss, cash flow and balance sheet data where you can line up different cost assumptions with data to see what the potential impact would be on the budget.

"So if you see a specific cost going up, or specific revenue projections change, you [can] easily see the effects of those changes," March said.

Scenario analysis spreadsheets can also be useful for hiring and salary planning. For instance, what would the financial impact be from hiring five new people or 10 new people? Or what would it look like if you gave 5% raises or 8% raises?

March noted that there are FP&A tech tools on the market that integrate with Microsoft Excel and can put your business in a better position to pivot with changing market trends, including central databases for tracking accounting, operational and payroll data that's key to scenario planning.

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Ways that IRS, DOL discover independent contractor, employee misclassification

Q: Besides someone complaining directly to the agencies, how else could the IRS or Dept. of Labor (DOL) find out that a company's misclassifying employees as independent contractors?

A: Independent contractor/employee misclassification can cost an employer thousands of dollars in penalties, taxes and interest. So you, Payroll and A/P need to be on the lookout for it.

During the Premier Learning Solutions online workshop "FLSA Compliance Update: Avoid Wage Nightmares & Penalties," Tricia Richardson, CPP, SPHR and SHM-SCP, mentioned common ways the feds find out about employer missteps:

Unemployment benefits filing. If a worker has a full-time job and a side job, and the person gets laid off by the full-time employer, they have to disclose income they're actively making from the side job to the state. "[The unemployment office] might ask them: 'So tell me about this independent contractor work. What do you do?'" Richardson said. Depending on the circumstances, work the person thinks they're doing just to make some extra money could actually qualify them as a part-time employee of the business. This would trigger an obligation by the employer to pay back federal employment and income taxes on that person's pay.

Workers' compensation audits.

Richardson noted that state workers' comp auditors "will usually ask you for your accounts payable register or 1099s. They're looking for your independent contractors."

IRS audits for an unrelated matter, and

Review from a worker's tax preparer.


If the tax preparer believes their client should've received a Form W-2 instead of a 1099-NEC or MISC, they can file Form SS-8 along with the worker's return to request an official determination from IRS of the worker's status for the purposes of federal tax withholding.

[Read more Ask the Auditor in your Membership Dashboard](#) 

Tax withholding nuances your Payroll pros need to know about



by Brian Bingaman



WITHHOLDING METHODS THAT CAN DIFFER DEPENDING ON THE SITUATION

Tax withholding can get tricky for your Payroll pros, between federal and state obligations.

And in addition to tax withholding on regular employee wages, there are entirely separate guidelines for supplemental wages.

This can get particularly complicated if you have employees at your company that receive more than one kind of supplemental wage payment, such as:

- bonuses
- commissions

- retroactive pay increases
- unpaid overtime from a previous pay period
- prizes and awards (fringe benefits)
- accumulated leave payouts, and
- severance pay.

But IRS allows more than one withholding method for supplemental wages, so it's key your Payroll pros are using the one that fits best.

2 ways to withhold on supplemental wages

The most common type of withholding for supplemental wages is the aggregate method, where supplemental wages are totaled and added to regular wages in payroll (subtracting any withholding deductions that may have already been made). Then, the withholding amount is based on whatever info the employee entered on their Form W-4.

But in the Premier Leaning Solutions online workshop "Payroll Taxes 101: Withholding, Depositing & Reporting

Tax withholding nuances your Payroll pros need to know about

Requirements,” Vicki Lambert, CPP, pointed out that there’s also an alternate method.

Instead of using the W-4 to compute the withholding amount, you use threshold percentages: 22% for supplemental wages up to \$1 million in a calendar year or 37% for supplemental wages over \$1 million.

So for example, if a sales rep earns a \$1,000 commission, you’d multiply that by 0.22 to arrive at a figure of \$220 to withhold.

When would it be best to use this method? Lambert explained that the alternate method comes in handy if you’re issuing a separate check – for example, a non-payday bonus check or a one-time payment for overtime that was accidentally unrecorded. This approach can help Payroll steer clear of altering your company’s pay period processing frequency (e.g., a 27th paycheck when employees are paid during 26 biweekly periods) and incorrectly calculating tax withholding.

If you’re comfortable with both methods, Lambert said you can ask employees if they have a withholding preference. But if for some reason you ever find out an employee’s supplemental wages haven’t had any federal income tax taken out in the current year, you’re required to use the aggregate method, she said.

Vacation pay withholding

Normally regarded as a regular wage payment, vacation pay may be treated as supplemental wages if it’s paid separately in addition to an employee’s regular wages, according to Lambert.

“If I were getting my paycheck today, and then I’m (going on) two weeks’ vacation ... I’m not going to be here next payday (in a biweekly pay cycle). I can treat (regular wages and vacation pay) as two separate checks. I don’t have to aggregate them,” she said.

State income tax withholding

In addition to federal income tax, you may have to withhold for your state government. Forty-one of the 50 states collect income tax.

However, not all states are as flexible with supplemental wage withholding methods as the IRS. Some require that you use the aggregate method only.

If your state allows the alternate method, its percentage rate is likely different from the federal rate. So if you’re going to go down that road, you’ll want to check with your state Dept. of Labor to find out the specific percentage rates.

Tax withholding & nonresident aliens

Nonresident aliens (NRA) working in America on a visa are generally not tax-exempt on U.S.-sourced income. However, if they’re from one of the 30 countries the U.S. has a tax treaty with, they can possibly claim an exemption using IRS Form 8233, “Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.”

If you have someone on staff with a student visa F, J, M or Q, they may

be either exempt from withholding or subject to a withholding rate of 14% because they’re full-time students and not full-time workers.

Unless these individuals are filing Form 8233, it’s vital to have a W-4 on file with “NRA” indicated on the form. On the pre-2020 W-4, NRA status should be written/typed on the electronic version on line 6, or under step 4(c) if you’re using the current W-4.

Also, regardless of their marital status, NRAs can only declare as single.

Depending on which W-4 form is used, you’ll need to refer to various tax tables, charts and worksheets in Form 15-T for guidance on withholding for NRAs.

“You’re just simply going to add the amount, based on the payroll, to the employee’s wages, tax it and then take it off,” Lambert said.

Some other important notes regarding NRA employees:

- Withholding shouldn’t be reported on Form W-2.
- These procedures only apply to federal income tax, and not FICA or FUTA taxes.
- These procedures shouldn’t be used for students or apprentices from India, as they have different tax charts and guidelines to follow.
- Most NRAs should complete step 2 in the current W-4 form. Only NRAs from Canada, India, Mexico or South Korea should complete step 3.

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