

The Ultimate Guide to Certified Payroll

Construction payroll is unique. It involves many intricate compliance requirements, including prevailing wage, union regulations and multi-state and multi-city regulations.

Due to these complexities, many construction companies outsource their payroll. Specialized payroll services assist contractors with remaining compliant with the ever-changing laws and regulations governing certified payroll.

Whether you're new to construction-specific payroll or looking for ways to simplify your processes, we're here to help. We've created a guide to help you navigate the complicated world of certified payroll. Below, we've outlined much of what you need to know to be successful with certified payroll reporting.

Certified Payroll. Noun. sər-tə-fīd pā-rōl.

Definition:

1: A type of payroll report that all contractors working on federally funded projects must complete and submit to the government. Certified payroll uses Form WH-347, which contractors must submit weekly throughout the project's duration. Sometimes, contractors will fill out other reports, depending on what is required for the job at hand. Often, contractors need to complete these forms electronically and submit them through an online system such as eMars, LCPtracker or California DiR.

2: A massive headache for contractors.

Synonyms and Related Words:

- Davis-Bacon
- Prevailing Wage

What is Certified Payroll?

Construction certified payroll is a highly regulated type of payroll that contractors must use when working on federally (or sometimes state) funded projects. Certified payroll is when contractors and subcontractors submit weekly reports proving that they pay their employees the prevailing wages as they are defined in the Davis-Bacon and Related Acts.

What is Prevailing Wage?

Prevailing wage is the rate that must be paid to laborers and mechanics* working federally funded projects, as defined under Davis-Bacon laws. Prevailing wage laws dictate that these workers must be paid at least the same rate as laborers and mechanics working similar jobs in the project's location.

Prevailing wage is typically determined based on the hourly wage, fringe benefits and overtime that is paid to the workers, laborers and mechanics in a given area.

^{*} Laborers and mechanics are defined as workers whose duties are manual or physical in nature, may be specific to trades and can involve tools. A more detailed definition can be found on www.laborcompliancegroup.com and search for 15e Interpretations.

What is the Davis-Bacon Act?

The Davis-Bacon Act was passed almost a century ago, on March 3, 1931. It was passed to ensure laborers working federal jobs weren't underpaid. The fear was that contractors were cutting wages so they could bid low to win jobs. The government's response was the Davis-Bacon Act, which was passed to protect workers from exploitation and unfair compensation.

The Davis-Bacon Act is responsible for prevailing wage laws, dictating that when working on a qualifying federal project (jobs worth more than \$2000), contractors must pay their laborers and mechanics no less than the local prevailing wage and fringe benefits.

Today, the Davis-Bacon and Related Acts are still in place and affect contractors and subcontractors who win those qualifying federal contracts.

Why Would I Want to Bid on Certified Payroll Projects?

Whether or not a contractor chooses to bid on Davis-Bacon projects is ultimately their business decision. Contractors should know that there are several benefits to working certified payroll jobs, including:

- Money: Certified payroll jobs will often pay more than their conventional counterparts. Many contractors are searching for ways to maximize their profits, and working federal and public jobs can be a great way to bolster your profit margin.
- Reputation: Federally and publicly funded projects can help build a construction company's "resume." Companies who complete these projects demonstrate through their work that they're capable, compliant and reliable. This reputation can help them to win more jobs in the future.
- Consistency: There's no shortage of federally and publicly funded projects. Look around any community and you'll notice one thing: something is always under construction. Whether a city is hanging powerlines, fixing potholes or building a new elementary school, there are always publicly funded projects to bid on and win.
- Security: Government jobs can ensure recession-proof work. Regardless of the state of the economy as a whole, the government will always have work that needs to be completed on a particular timeline. By working government-funded jobs, contractors can ensure they'll have work during periods when it might be difficult to find or win privately funded jobs.



What is the Difference Between Private, Public and Federal Funding?

Whether a project is privately, publicly or federally funded is determined by property ownership.

A federally owned building is any building constructed by, or for the use of, any one or more of the United States' 438 Federal agencies or sub-agencies. Examples of federally funded buildings include United States Post Offices,

the White House and United States Air Force Bases. Typically, you can assume that any building with "United States" in front of its name is a federally owned building.

Public buildings include any building owned by a state, county, city or political subdivision. Examples of public buildings include public schools, city hall, the Department of Transportation and city recreation centers. It's important to note that, just because a building is open to the public (like a restaurant) does not mean it is a publicly owned property.

Private buildings are the only type of building that are never subject to prevailing wage laws. Private buildings are buildings that are owned by private entities and not funded by tax dollars. Some examples of private buildings include grocery stores, churches, residential houses and office buildings.

Ownership of a federal or public building or project — and by extension, funding — can be determined by assessing who pays for the structure on which work will be completed. If the building or project is funded by tax dollars, ownership can be determined by analyzing whether state or federal taxes are funding it.

For example, let's say your neighbor is getting a new roof on their house. Your neighbor owns the house and the property the house is on. Your neighbor will be paying for the roof. This is a private project.

Now let's imagine Clara Barton Parkway in the Clara Barton National Historic Site is seeking bids for pothole repair. We know that National Parks are owned or the United States Federal Government. We also know that Clara Barton Parkway is a federally maintained road. Therefore, we can deduce that this will be a federally funded project.

Which Federally Funded Projects Qualify for Certified Payroll?

If you bid a federal contract valued over \$2,000, you're required to file certified payroll reports.

Per the Davis-Bacon Act, this law applies to all contractors and subcontractors who have been hired to complete construction, alteration or repair of a public building or public work on a federal or District of Columbia contract.

Certified payroll jobs come with wage determination, so contractors will know when they need to satisfy certified payroll requirements. Contractors should be aware that they will likely need to complete certified payroll for the vast majority of all federal and public jobs they bid.

Remember: Certified payroll will be required for these projects for all contractors involved — including the project owner, the head contractor and all subcontractors. Even if you are just completing a small portion of the project, you will be required to submit certified payroll reports.

When prime contracts exceed \$100,000 in value, contractors and subcontractors are required to pay laborers, mechanics, guards and watchmen at least one and one-half times their regular rate of pay for all overtime hours. Overtime hours typically include any hours worked over 40 in a single workweek, though some jobs have specific daily overtime rules. This is defined under the provisions of the Contract Work Hours and Safety Standards Act.

Overtime must be disclosed in section 5 of Form WH-347, where contractors must specify the total number of overtime and straight-time hours worked on the project. Section 5 is defined more in-depth in this article under the section titled "What Information is Included in a Certified Payroll Report?" It can be found under bullet 4D.

What Publicly Funded Projects Qualify for Certified Payroll?

Unlike federally funded projects, which have a blanket dollar minimum of \$2,000 where prevailing wage laws kick in, each state sets its own dollar threshold amount for contract coverage. Some states even require other criteria to be met.

What States Require Prevailing Wage?

Twenty-eight states and one district have prevailing wage laws. They include Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Vermont, Washington, Washington, D.C. and Wyoming.

What States Do Not Require Prevailing Wage?

Twenty-two states do not have prevailing wage laws. These states include Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, West Virginia and Wisconsin.

Who Sets Prevailing Wages and Enforces the Davis-Bacon Act?

According to the Davis-Bacon and Related Acts and Reorganization Plan, The U.S. Department of Labor must determine federal prevailing wages and the local prevailing wage rates. Further, the Department of Labor must issue regulations and standards for the federal agencies that award Davis-Bacon projects. It is also the responsibility of the Department of Labor to enforce these regulations and standards.

Through the "Related Acts" of the Davis-Bacon Act, federal agencies must help to fund construction projects through grants, loans, loan guarantees and insurance.

What is the Davis-Bacon Applicable Wage Determination?

Davis-Bacon wage determinations, aka prevailing wages, are published on the <u>System for Award Management (SAM)</u> website. This website allows contractors to look up prevailing wages for any given project. This can be done using a WD Number like a DBA or an SCA Identifier. If you do not know these numbers, the website allows you to look them up.

What Records Do I Need to Keep Under the Davis-Bacon Act?

The Davis-Bacon Act dictates that businesses keep an accurate and organized record of payroll and basic records while work is being completed and for at least three years after. The records that need to be maintained must include the name, address and social security number of all the laborers and mechanics who worked on the job.

Do I Need to Tell My Workers About Davis-Bacon?

To ensure workers are aware of their rights under Davis-Bacon, contractors and subcontractors are required to write the wage determination on the <u>Davis-Bacon poster (WH-1321)</u>. When working on certified payroll construction projects, this poster must be hung on the jobsite in a place that is both prominent and accessible to the workers.

What Are Certified Payroll Reports?

Certified payroll reports are meant to confirm that Davis-Bacon laws are being followed. They substantiate that contractors and subcontractors working on federally funded projects are paying their employees prevailing wages. They are records that must be filed weekly with the U.S. Department of Labor, even if work is halted, throughout the duration of the project. Contractors typically use <u>Form WH-347</u> for all contracts subject to Davis-Bacon laws. Employers must comply with this requirement within seven calendar days from a project's initial date of payment.

What Does a Certified Payroll Report Look Like?

Certified payroll reports are documents that can be found on the Department of Labor's website. It's important to note that, while the WH-347 form is the standard form for certified payroll, contractors may be required to fill out alternative versions of the form, depending on what the contractor on the job requires.

Here's an example of a completed WH-347 certified payroll report:

	U.S. Departme Employment Standard Wage and Hour Division	ds Admir	f Labor nistration			C	ER	RTI	FIE	D	P <i>F</i>	ΥF	RO	LL	REF	PORT
	Name of Contractor X or Subcontractor Build-It Construction Expires: Payroll No. For Week Ending 08/23/2022			Address Project and Location 97021 - Lake County Truss Rebuild							OMB No.: Project or Contract No.					
	(1) Name and Individual Identifying number (e.g. last four digits of Social Security number) of worker	# of W/H Exmp	(3) Work Classification	Earn Code	(4) DAY AN MON TUE WED TH	HU FRI SAT SUN 720 08/21 08/22 08/23	(5) Total Hours	(6) Rate of Pay	(7) Gross Amount Earned	t FICA	Fed W/H Tax	State &	Union Deduc- tions		Tota l Deductions	(9) Net Wages Paid for Week
	Stevens, Rick L 7451 East 56th Avenue Cleveland, OH 44132 *****9549		Electrician	OT1 REG	HOURS WORK 4.00 8.00 8.00 8.0	00 8.00 8.00	4.00	26.25 17.50	805.00 805.00	61.58	94.24	40.69	tions	210.15	406.66	398.34 Race: BLK Gender: Male
	Cashman, Arthur A 306 Cavanaugh Ha ll Cleveland, OH 44132 ***-**-1269		Operators- Foreman	OT1 REG	8.00 8.0	90 8.00 8.00 8.00	4.00	32.63 21.75	1,000.50 1,000.50	76.54	156.70	56.05			289.29	711.21 Race: WHT Gender: Male
	Brandon, Michael A 123 Abbot Berea, OH 44123 ***-**-9856	МО	Laborer	OT1 REG	10.00 10.00 10.00 10.0	3.00	3.00 40.00	28.50 19.00	845.50 845.50	64.68	73.03	44.95			182.66	662.84 Race: BLK Gender: Male
do hereby state: (1) That I pay or supervise payment of the pe Build-It Ct (Contractor or Rehab of Erie Hospital (Building or Work) 1st day of March , 2019, and ending the 7: all persons employed on said project have been paid been or will be made either directly or indirectly to or Build-It Constructi (Contractor or Subcor	the full weekly wages earned on behalf of said on htractor)		from the fu													
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(2) That any payrolls otherwise under this contra are correct and complete; that the wage rates for lab than the applicable wage rates contained in any wag the classifications set forth therein for each laborer or (3) That any apprentices employed in the above ticeship program registered with a State apprenticesl ticeship and Training, United States Department of L State, are registered with the Bureau of Apprentices! (4) That: (a) WHERE FRINGE BENEFITS ARE PAID In addition to the basic hourly wage rate the above referenced payroll, paymer have been or will be made to appropremployees, except as noted in Section	orers or mechanics containe e determination incorporated or mechanic conform with the period are duly registered in nip agency recognized by the abor, or if no such recognized ip and Training, United State TO APPROVED PLANS, FUI ates paid to each laborer or n ts of fringe benefits as listed side programs for the benefit	d therein a d into the co work he p a a bona fice Bureau c d agency es Departr UNDS, OR mechanic I d in the co	are not less contract; that berformed. de appren- of Appren- exists in a ment of Labor. PROGRAMS listed in	T J P. Eg	NAME AND TITLE IMPORTS TO SIGNATURE TO SIGNATURE TO SIGNATURE TO SIGNATURE STATE TO SIGNATURE STATE	F ANY OF THE ABOVE STAT	NATURE EMENTS N SEE SECT	MAY SUBJE	ECT THE CON	ITRACTOR AND SECTI	OR ON 231 OF					

How Do I Fill Out a Certified Payroll Report?

A certified payroll report — or Form WH-347 — can be daunting to contractors who have never had to fill one out before. For a comprehensive guide on how to fill out these reports, contractors should visit the <u>Department of Labor's website</u>. These reports can be filled out electronically or they can be printed and filled out manually. Many contractors use construction accounting software to automatically fill out payroll reports. Those who don't have the time to complete the reports will often use a payroll service specialized for the construction industry.

What Information is Included in a Certified Payroll Report?

Though it varies by agency, certified payroll reports will typically contain the following information:

Note: The information below is based on the US Department of Labor form WH-347.

Page One:

1. Company Information

- A. The company's name
- B. Whether the company is working as a contractor or subcontractor on the project
- C. The company's address

2. **General Information**

- A. The payroll number for the submission (the first submission should read "1," the second submission should read "2," etc.)
 - i. It's important to note that this will likely vary, as some contractors report the actual weeks worked, instead of including the weeks where no work was performed
- B. The ending day of the workweek

3. **Project Information**

- A. The name of the project and its location
- B. The project or contract number

4. Payroll Information

Note: Certified payroll reports must be filled out for every mechanic and laborer working on the project. Payroll information must be included individually for each employee. Eight employees can fit on a single WH-347 form. This portion of the report must include:

- A. The full name and identification number of the mechanic or laborer
 - The individual identification number may be the last four digits of each worker's social security number
- B. The number of withholding exemptions, if applicable
- C. The work classification of the mechanic or laborer (for example, carpenter, millwright, piledriver, electrician, etc.)
- D. The total hours worked on a daily basis for each worker (divided into straight hours and overtime hours). This section must include the day, date, straight-time and overtime hours worked.
- E. The mechanic or laborer's total hours worked for that week
- F. The rate of pay for the worker at hand, including their fringe benefits
- G. The total monetary amount that the worker has earned so far throughout the course of the project (gross pay)
 - i. If the employee worked other jobs, this column will only show the gross pay for the given project and week
- H. Itemized payroll deductions and the total of these deductions
 - i. Federal Insurance Contributions Act (FICA) taxes
 - ii. Withholding tax
 - iii. Other
 - iv. Total
- I. The total amount of wages that have been paid to that worker for the week

1. A Signed Statement of Compliance

- A. This is a statement that confirms compliance with Davis-Bacon laws signed by the contractor, subcontractor or individual who either pays or supervises the payment of workers who are covered under prevailing wage laws. This must be included with each payroll report.
- B. It is important to note that it is the responsibility of the prime contractor to submit payroll reports by all involved subcontractors on a project.

2. **Deduction Descriptions**

A. In this area, you can explain any deductions that were made earlier. If deductions are adequately described in the "Deductions" column on page one, the Department of Labor instructs contractors to use this section to state: "See Deductions column in this payroll."

3. Fringe Benefits Confirmation

- A. You must indicate whether the required amount of fringe benefits are being provided to those on the payroll report, or if they're being paid out as additional monetary compensation.
 - i. Typically, fringe benefits are marked either as monetary (cash directly to the employee), approved plans (cash going to a third party on behalf of the employee) or a combination of the two

4. Fringe Benefits Exceptions

A. If a mechanic or laborer is not receiving fringe benefits or equal compensation, you must describe why.

5. Signature

A. The individual filling out the payroll report must state their name and title and sign the form, agreeing that they have not willfully falsified any of the information included.

How Do I Submit Certified Payroll Reports?

Where contractors will submit certified payroll reports depends on the project. Sometimes, the reports will be submitted directly to the project's contracting agency. Other times, they'll be submitted to the prime contractor on the project, who then submits them to the prime contracting agency.

The contractor you are working for will tell you exactly which certified payroll report needs to be filled out. They will also give you information on how and where to submit the report. Often, contractors need to complete these forms electronically and submit them through an online system such as eMars, LCPtracker or California DiR. Other times, the contractor on the job will collect them directly.

The head contractor will typically be told where to submit the certified payroll reports prior to a project's start. More often than not, they will end up submitting the reports to one of the aforementioned online systems — eMars, LPCtracker or California DiR.

Once the certified payroll report has been submitted through one of these channels, it will be forwarded to the Department of Labor.

How Long Does It Take to Complete Certified Payroll Reports?

The Department of Labor estimates it will take contractors an average of 55 minutes to complete certified payroll reports. This estimate includes time needed to collect information, review instructions, search data sources, gather and maintain data needed and complete and review the collection of information.

How Do I Satisfy Prevailing Wage Laws?

Rules regarding fringes, total packages and fringe reduction vary by job. In certified payroll, required fringe benefits are determined in the same manner as prevailing wage: by the Department of Labor. They are typically based on local union pay.

For example, if prevailing wage is set at \$30 an hour, a contractor may choose to pay a flat rate of \$30 an hour. Alternatively, they may pay \$25 an hour, plus a fringe benefit that is equivalent in value to \$5 an hour for each hour the employee worked.

What Are Fringe Benefits in Certified Payroll?

Fringe benefits are defined as any type of non-monetary compensation given to employees in addition to their typical salary. For an average worker, fringe benefits may include things like health insurance, a company car or adoption assistance, though these fringe benefits may not be typical for those working in construction.

In certified payroll, required fringe benefits are determined in the same manner as prevailing wage: by the Department of Labor. They are typically based on local union pay. Sometimes, fringe benefits are included in prevailing wage determinations.

What if I Don't Offer My Davis-Bacon Workers Fringe Benefits?

Contractors who don't offer fringe benefits must make up for it with additional monetary compensation. It's also important to note that, even if a contractor offers fringe benefits, they may not be able to take a prevailing reduction for all of them. This means they would still need to offer an additional monetary fringe.

For example, if prevailing wage dictates that employees must make \$30 per hour, plus an additional \$15 per hour in fringe benefits, and the employer does not offer fringe benefits, the employee must be compensated an additional \$15 per hour, in addition to the mandated \$30 per hour.

If overtime must be paid by a contractor or subcontractor who does not offer fringe benefits, the rate of overtime must be equal to or greater than the total of the base pay, the time-and-a-half rate and the required cash amount that is paid in place of fringe benefits.

Other Considerations for Certified Payroll

Multi-Jurisdiction Payroll (aka Multi-City and Multi-State)

Multi-jurisdiction payroll refers to multi-state and multi-city payroll.

This type of payroll is used when employers must withhold funds from an employee's paycheck to cover taxes for more than one city or more than one state.

Some situations where multi-jurisdiction payroll is liable to come into play include (but are not limited to):

- 1. When a worker lives in one city but works in another
- 2. When a company is located in one state but completes work and receives payment from a client who is located in a different state
- 3. When an employee completes work in multiple different cities and states throughout the year
- 4. When employers have business fronts in multiple different states
- 5. When businesses are located near the border of two different states, with employees coming to work from both states
- 6. When employees travel to a state where they are not a resident to complete work

As a contractor working on prevailing wage jobs, it's important to understand the law surrounding multijurisdiction payroll because it will affect how you deduct taxes from your workers' pay. These deductions will need to be itemized on the weekly certified payroll reports.

Tax Nexus

A tax nexus is a dollar threshold determined by each state that dictates when an out-of-state business is required to register, collect, and pay state taxes. Tax nexuses can refer to sales tax, income tax, SUTA or workers' compensation tax.

Similar to understanding the laws surrounding multi-jurisdiction payroll, it's important to understand applicable tax nexuses because they will affect how you deduct taxes from your employees' paychecks. These deductions will need to be reflected on weekly certified payroll reports.

Reciprocity Agreement

A reciprocity agreement is an agreement between two states. Reciprocity agreements make it possible for employees to live in one state, work in another, and only pay income tax in the state in which they reside. Under reciprocity agreements, employees can request exemption from tax withholding in the state in which they work. This prevents double tax withholding.

Not every state maintains reciprocity agreements. If there is no reciprocity agreement in place between two states, then employers may withhold state income tax for both the state where the employee lives and the state where the employee works.

Similar to multi-jurisdiction payroll and tax nexuses, it's important to understand which states maintain reciprocity agreements because it will affect how you deduct taxes from your employees' paychecks. These deductions will need to be reflected on weekly certified payroll reports.

What Problems Do Contractors Run into With Certified Payroll?

According to the United States Department of Labor, the six most common problems that contractors run into when completing certified payroll include:*

- 1. Misclassification of laborers and mechanics
- 2. Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours)
- 3. Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day
- 4. Failure of to maintain a copy of the bona fide apprenticeship program and individual registration documents for apprentices
- 5. Failure to submit certified payrolls weekly
- 6. Failure to post the Davis-Bacon poster and applicable wage determination

Contractors can avoid these mistakes by being diligent in their research when accepting prevailing wage jobs. Taking care to keep detailed records as they complete a project can help to avoid recordkeeping discrepancies.

Utilizing construction accounting software program can be beneficial as well. Construction-specific programs automate and eliminate many of the frequently encountered certified payroll issues, including issues of recordkeeping and weekly payroll reports.

^{*} www.dol.gov/agencies/whd/fact-sheets/66-dbra

What if I Don't Agree with Certified Payroll Laws?

Certified payroll is a main component of Davis-Bacon laws, therefore, it is required by law that contractors comply. The Department of Labor requests that anyone with comments regarding Davis-Bacon laws, or with suggestions to reduce the burden involved in completing certified payroll, reach out to them. Comments, complaints and suggestions can be mailed to:

Attn: The Administrator Wage and Hour Division U.S. Department of Labor Room S3502
200 Constitution Avenue
N.W., Washington, D.C., 20210

What Happens if I Don't Comply with Certified Payroll?

If a company knowingly submits incorrect or inaccurate certified payroll reports — or chooses to ignore Davis-Bacon laws altogether — the business will likely face penalties. The offending company could be fined, or even barred from completing government work in the future. Intentionally violating the Davis-Bacon Act can also lead to criminal or civil prosecution.

What Construction Payroll Solutions are Available?

If payroll laws aren't followed, construction companies are at legal risk. At best, incorrect payroll is an inconvenient mistake that takes several hours to correct. At worst, it can lead to serious repercussions including lawsuits, fines and even jail time.

Construction-specific payroll services, like Payroll4Construction, help contractors remain compliant with the laws. They also help to eliminate common errors made on certified payroll projects and can save countless hours over the course of the construction season.

Construction-specific payroll services can save contractors time, money and stress when it comes to certified payroll. Many of these services take care of the "office" work involved in completing certified payroll — everything from cutting checks to populating the data in your certified payroll reports. With a service like this, all you will need to do is submit your workers' hours and turn the completed certified payroll report into the correct governing body.

Some factors to consider when deciding on a construction payroll solution might include how much time you have to dedicate to payroll, your total number of employees and the scale of your company.

Conclusion

Certified payroll can be a significant undertaking — especially if you're unfamiliar with the rules and regulations. Contractors must submit weekly certified payroll reports and demonstrate compliance with the various laws surrounding the Davis-Bacon Act.

Many contractors will encounter challenges when embarking on prevailing wage projects. They may misclassify their workers or commit recordkeeping errors. Others may even fail to pay correct wages. Thankfully, there are specialized payroll services available to help streamline the process and provide resources to assist in avoiding common certified payroll reporting errors.

Engaging in certified payroll projects is definitely worth the challenges. Federally and publicly funded jobs offer financial benefits, enhance reputation and provide job consistency. Regardless of how your company chooses to handle certified payroll, we hope this guide has provided you with a solid foundation of payroll knowledge.