

# Overview of Employee Payroll Information Requirements



Although it's not exactly a glamorous task, the obligation to maintain complete and accurate payroll records is in some ways the most important part of a payroll manager's job. It also happens to be a legal obligation.

There's plenty of literature about the technological and administrative aspects of maintaining payroll records. But the legal dimension is typically overlooked. That's a real shame because complying with payroll record-keeping obligations is a huge challenge. Here's an overview of the payroll documents employers are required to keep.

## **Defining Our Scope**

This analysis focuses on payroll record keeping obligations under provincial employment standards laws, specifically the information you must maintain for each employee on your payroll. Be aware that you also have to keep payroll-related records under federal laws like the *Income Tax Act*, *Employment Insurance Act* and the *Canada Pension Plan*, and perhaps the tax laws of your province.

## **What's At Stake**

Without the right records, you can't make proper withholding and remittances. In addition to payment errors, failure to maintain records exposes your organization to a host of liability risks under employment standards laws.

**Government Access:** For example, the laws require employers to furnish labour boards and government inspectors access to their payroll records or face potential fines and other penalties, which, in some provinces such as NL can include jail.

**Employee Wage Claims:** You also need complete and accurate payroll records documenting hours worked and compensation paid to fend off claims by employees and former employees over wages, overtime, vacation pay and other issues. In some provinces, like NB and NL, the employment standards laws say that an employee's wage claim is presumed to be valid if the employer doesn't have accurate records to refute the claim.

## **Employee Information Keeping Rules**

Each jurisdiction has detailed record keeping requirements. The rules are similar but

not identical from jurisdiction to jurisdiction. One of the main differences is how much information you must keep. On the high end are provinces such as BC, MB, NB, QC and SK that require employers to keep more than 15 specific pieces of information about employees and their payroll history. On the low end are jurisdictions like NS, ON and YT which require between 10 -12 pieces of information. to determine which items of information your province requires you to keep.)

In general, there are three categories of payroll-related information that you must maintain under employment standards laws.

### **1. Identifying Information**

All jurisdictions require employers to maintain some basic identifying information on each employee, which may include:

- The employee's name and address;
- Date of birth or current age;
- Date of employment—except in YT; and
- Gender—Fed, NS and SK only.

One piece of identifying information that employment standard laws don't generally require is the employee's Social Insurance Number. (Exception: SINs are required under Fed, NB, PEI and QC employment standards laws.) However, federal tax and payroll laws do require keeping of the SIN. For example, the *Employment Insurance Act* requires employers to maintain the SIN of employees in insurable employment. Additionally CPP and EI require that the employer not just have the SIN but actually see the employee's SIN card.

### **2. Payment Information**

As opposed to identifying information that you generally gather once at the beginning of the employment, the employment standards laws also require you to maintain certain payroll information on an ongoing basis such as wage rates, hours worked, deductions, allowances, paid holidays and vacation or other leave information.

You also must record the hours worked by the employee each day. Exceptions: You don't have to track the daily hours of employees who are exempt from mandatory overtime (ON), managers or supervisors (Fed) or salaried employees (PEI). In MB, employers needn't record daily hours if hours don't vary from day to day so long as they keep track of hours exceeding regular work hours.

However, it's wise to record employees' daily hours even if your province doesn't specifically require you to, experts advise. First of all, you might be wrong in judging the employee exempt from mandatory overtime. If you ever end up in court fighting an employee about overtime wages, you could be forced to pay what the employee claims you owe if you don't have your own records to refute the employee's claims about hours worked.

Technically, federal income tax, EI and CPP and provincial tax laws don't specifically say you have to keep information about specific payments. However, the obligation is implied because you'll need this information to support the deductions you withhold and amounts you pay for taxes and pension contributions.

### **3. Documents and Agreements**

Some jurisdictions require employers to keep documents relating to the terms of payment. Notable examples:

- In BC, ON and YT, employers must keep copies of overtime averaging agreements with their payroll records;
- Fed, AB, ON and NB require documentation regarding leaves of absence;
- Federal law requires employers to keep copies of agreements regarding the waiver or postponement of vacation time and notice of job modifications or reassignments;
- AB, NB, NT and NU require employers to keep a copy of any notice of termination in their payroll records; and
- As noted above, federal Income Tax Act, EI and CPP and some provincial tax laws require employers keep records and books of account that support the accuracy of with holdings and tax payments.

**Insider Says:** BC specifies that payroll records be kept in English. MB says payroll records can be in either English or French.

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### **A Checklist of Laws Containing Record keeping Requirements**

Federal, *Canada Labour Code*, Sec. 252

Federal, *Canada Labour Standards Regulation*, Sec. 24

Federal, *Canada Pension Plan*, Sec. 24

Federal, *Employment Insurance Act*, Sec. 87

Federal, *Income Tax Act*, Sec. 230

Alberta, *Employment Standards Code*, Sec. 14

British Columbia, *Employment Standards Act*, Sec. 28

Manitoba, *Employment Standards Code*, Section 80 and 135

Manitoba, *Health and Post Secondary Education Tax*, Sec. 31

New Brunswick, *Employment Standards Act*, Sec. 60(1)

Newfoundland/Labrador, *Labour Standards Act*, Sec. 63

Newfoundland, *Health and Post Secondary Education Tax Act*, Sec. 23

Nova Scotia, *Labour Standards Code*, Sec. 15

Northwest Territories, *Employment Standards Act*, Sec. 50(6)

Nunavut , *Labour Standards Act*, Sec. 46

Ontario, *Employment Standards Act*, Sec. 15

Ontario, *Employer Health Tax*, Sec. 12

Prince Edward Island, *Employment Standards Act*, Sec. 5.6

Quebec, *Regulation respecting a registration system or the keeping of a register under the*

*Labour Standards Act*, Sec. 1

Quebec, *QPIP*, Sec. 292

Saskatchewan *Employment Act*, Sec. 2-38

Yukon, *Employment Standards Act*, Sec. 62