

The most current information on how Payroll professionals can avoid legal and procedural pitfalls, in a fast-read format, twice a month.

December 10, 2022

IRS FORMS & REGS ALERT

The IRS is taking another look at many of the documents you use regularly, including tax forms. We'll keep you posted on any changes, such as new ways to report.

■ ELECTRONICALLY FILING STATEMENTS SUCH AS W-2

Item: TD 9114, *Electronic Payee Statements*.

Background: These regs relate to the electronic filing of Forms W-2, Forms 1098-T and Forms 1098-E.

Comments due: 1/13/23.

Cite: *Federal Register*, 11/14/22.

■ GET IRS DETERMINATION ON WORKER'S STATUS

Item: Forms SS-8 and SS-8(PR), *Request for Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*.

Background: The SS-8 can be filed by workers or companies to ask the IRS for a determination regarding a worker's status under the common law rules. This helps employers withhold the correct employment and income taxes for workers deemed to be employees, not independent contractors.

Comments due: 1/16/23.

Cite: *Federal Register*, 11/15/22.

Go to www.gpo.gov for copies of the forms.

Ready to file TY 2022 W-2s? SSA gives year-end update

■ *The forms must be submitted by Jan. 31, 2023*

During the IRS December Payroll Industry Call, the SSA provided details you'll need as you prepare to file tax year 2022 Forms W-2.

Uploading wage files through Business Services Online (BSO) is by far the most popular method of submitting forms, with SSA noting that it received more than 150 million W-2s via that method for TY 2021. By comparison, 12.9 million paper W-2s came in for TY 2021.

While last year you had the option of using SSA's redesigned application for wage file uploads, this year the legacy application won't be available at all.

One benefit of the new application? File error checking is done upfront in

real time, and it takes only about 30 seconds.

Another filing option – W-2 Online – had been down for enhancements for weeks, but it's available again.

Whatever filing method you may choose for TY 2022, you can start submitting files to SSA as of Dec. 5, 2022. Remember, the filing deadline is Jan. 31, 2023.

Also, pass along this tidbit to IT: Scripting and screen scraping likely won't work now, SSA explained.

New registration process

Another update SSA gave during the Call was regarding the registration

(Please see Year-end update ... on Page 2)

IRS says Form W-2 changes pushed back to TY 2024

The IRS had released a draft version of the TY 2023 Form W-2 on Sept. 29, 2022, featuring some formatting changes. But now, the form's redesign is being put on hold until TY 2024, the IRS said during its November Payroll Industry Call.

That's because of some feedback the IRS received from stakeholders. For example, the redesign doesn't match the current stash of envelopes used to mail the form.

The IRS reposted the draft TY 2023 Form W-2 on Oct. 31, 2022. The form looks like the TY 2022 version that you'll use this year-end. Although the reposted draft contains Copy D (the

employer copy), it's expected that when the final TY 2023 version is released, Copy D won't be included. Note: That copy wasn't part of the original posting on Sept. 29, 2022.

Giving plenty of notice

Looking ahead to TY 2024, the IRS explained during the Call that it'll give employers plenty of notice before rolling out the redesigned form.

It should look like the Sept. 29, 2022, version, although some tweaks may be made, the IRS said.

More info: www.irs.gov/pub/irs-dft/fw2--dft.pdf

DOL: Subcontractor failed to pay workers proper wages and benefits

■ NEW JERSEY COMPANY OWED MORE THAN \$200K IN BACK WAGES

Of course employees want you to get their pay rates right, but you know accuracy is also essential because it's the law.

Master Electric Service and Maintenance, for example, got stung for not paying eight employees the correct wages and benefits.

The electricians who worked for the Newark, NJ, subcontractor on a federally funded project were paid the rates of laborers.

The employees spent their time on a residential construction project in Plainfield, NJ. The project was supported with funding from the Dept. of Housing and Urban Development. Therefore, the employer was subject to the:

- Davis-Bacon and Related Acts (DBRA), and

- Contract Work Hours and Safety Standards Act (CWHSSA).

The violations meant the company had to pay \$202,896 in back wages, the Dept. of Labor (DOL) said.

Dollar amounts for contracts

The DBRA applies to federally funded contracts that exceed \$2,000. Prevailing wages and fringe benefits must be paid to workers who fall under these contracts.

The threshold is much higher for the CWHSSA – that law applies to federally funded contracts in excess of \$100,000. The CWHSSA says that laborers and mechanics must be paid one-and-a-half times their regular rate of pay for overtime hours.

More info: www.dol.gov/newsroom/releases/whd/whd20220726-0

Year-end update ...

(continued from Page 1)

process for BSO. Maybe you've never registered for BSO or perhaps you've used only limited services, like the Social Security Number Verification Service. Either way, you should know SSA has added a security measure which took effect Sept. 19, 2022.

For each employer identification number (EIN) being used during the registration process, SSA will send an activation code through the mail. That code will go to the address the IRS has on record for that EIN.

If you're unsure which address will be used, SSA will inform you of the city and state – but won't reveal the exact address for security reasons. Once you get the activation code, you'll need to enter that to complete the registration process.

Don't wait until January to register, SSA advised. Note: If you're already set up to file Forms W-2 using BSO, there's no need to register again.

More info: www.ssa.gov/bsol/bsowelcome.htm

SHARPEN YOUR JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

■ NO LEAVE TO CARE FOR SICK SON – WHO'S RESPONSIBLE?

"Those early days of the pandemic were a mess for all employers, Maya," Payroll Manager Pat Gray told her friend as they talked over lunch.

"I know," said Maya, "but not all employers are getting sued like we are. Jack says we should have let him take time off under the Family and Medical Leave Act.

"Thing is," Maya continued, "Jack had come to us from a staffing agency that provides payroll and HR services, so I'd think the staffing agency would be responsible under the law, not us."

Couldn't work from home

"I'm guessing Jack doesn't work for you anymore?" asked Pat.

"He hasn't been with us since 2020," said Maya. "He wanted to work from home and then asked to take time off to care for his son who had some health issues.

"We needed him to report to work in person and told him that if he didn't do that, we'd take it to mean he was voluntarily separating from employment," Maya added.

"I suppose someone from HR let the staffing agency know about his termination?" asked Pat.

"Yes," said Maya. "Bottom line: We're joint employers with them, but we're the secondary employer."

The employee sued the company saying it should have granted his request for leave. The company asked the court to dismiss the case. Did the court do that?

■ *Make your decision, then please turn to Page 6 for the court's ruling.*

From:  **KEEP UP TO DATE ON PAYROLL**

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30-day extension for giving employees Forms 1095-C? The latest from the IRS

■ PROPOSED REGS FROM DEC. 6, 2021, CONTAINED IMPORTANT DETAILS

The IRS still hasn't finalized proposed regs granting an automatic extension of time to give Forms 1095-C to employees. But the proposed regs themselves say they can be relied on until final regs are issued.

On Dec. 6, 2021, the IRS issued the proposed regs dealing with the reporting requirements under the Affordable Care Act (ACA).

That law says applicable large employers must furnish copies of Forms 1095-C to full-time employees by January 31 each year.

But ever since the ACA has been in existence, the IRS has granted an automatic extension – usually 30 days.

The proposed regs would modify the requirements of Sec. 6055 and Sec. 6056 of the Internal Revenue Code to lock in the automatic 30-day extension of the due date.

The regs clarify that if the extended due date falls on a weekend or legal holiday, Forms 1095-C will be timely furnished if they're provided on the next business day.

With the automatic 30-day extension of the January 31 deadline

in place, Forms 1095-C would be due to employees by March 2, 2023.

That due date is noted in the draft version of the 2022 *Instructions for Forms 1094-C and 1095-C*.

The IRS hasn't yet released the final version of those instructions because it's waiting for the regs to be finalized, the IRS explained during its November Payroll Industry Call.

Other forms due January 31

As Payroll pros know well, several other forms are due by January 31 each year – for example, Forms W-2 and Forms 1099-NEC.

So what's the challenge with getting Forms 1095-C to employees?

Employers may have to do a day-by-day or person-by-person assessment, which can result in varied codes needing to be entered on the forms. Some of the data isn't even available to employers until mid-January.

Making the 30-day extension permanent means employers have relief, and the IRS doesn't have to worry about processing requests for more time year after year.

More info: www.irs.gov/pub/irs-dft/i109495c--dft.pdf

Withholding tables for 2023 – here's the word from IRS

You'll find the 2023 federal income tax withholding tables in Publication 15-T. However, as of the beginning of December 2022, the final version of the publication hadn't been released.

The IRS posted a draft version on its website on Nov. 15, 2022.

During its December Payroll Industry Call, the IRS explained an Excel file containing the 2023 numbers can be accessed by opening the draft publication. It's a temporary measure while the form is being finalized.

The "What's New" section of

the draft publication includes an explanation of the redesigned Form W-4P and new Form W-4R. Their use is required by Jan. 1, 2023, or 30 days after the final forms are published by the IRS – whichever is later.

No major changes to Form W-4

Form W-4 hasn't been finalized, but no major changes are expected. The IRS released a draft version in the summer of 2022.

We'll keep you posted.

More info: www.irs.gov/pub/irs-dft/p15t--dft.pdf

NEWS YOU CAN USE

■ Q1 OF 2023 WILL BRING HIGHER INTEREST RATES

According to IRS Revenue Ruling 2022-23, interest rates will increase for the first quarter of 2023 as follows:

- 7% for overpayments and 6% for corporations – up from 6% and 5%, respectively
- 4.5% for the portion of an overpayment exceeding \$10,000 – up from 3.5%
- 7% for underpayments – up from 6%, and
- 9% for large corporate underpayments – up from 8%.

More info: www.irs.gov/pub/irs-drop/irr-22-23.pdf

■ DON'T EXPECT TO SEE THESE WAGE GARNISHMENTS YET

The temporary pause on federal student loan repayments would have ended Dec. 31, 2022, but the Dept. of Education (DOE) announced another extension. That means Payroll shouldn't have to worry about processing wage garnishments for defaulted federal student loans for now.

The latest extension comes as the U.S. Supreme Court will hear a case from the Eighth Circuit Court of Appeals. That lower court issued a nationwide injunction on the federal student loan forgiveness program. If the litigation hasn't been resolved by June 30, 2022, student loan repayments will begin 60 days after that, the DOE said.

More info: ecf.ca8.uscourts.gov/opndir/22/11/223179P.pdf

■ 'LATE NIGHT ACH' IS NEW TRANSACTION OPTION

Nacha's latest option for making accelerated ACH payments – "Late Night ACH" – was implemented in September 2022.

Transactions can now occur by 11:30 p.m. ET on business days.

More info: bit.ly/latenight658

TEST YOUR KNOWLEDGE

■ Following IRS requirements for Form W-4 this year-end?

It's that time of year when you may be receiving an influx of W-4s. Perhaps you've sent out a reminder that employees should update their forms to ensure their withholding is accurate for 2023.

Test your knowledge of Form W-4 by answering *True* or *False* to the following questions:

1. If you receive an invalid W-4 from someone, you should use a previous, valid form that the individual completed.
2. If your company produces a substitute Form W-4, you can submit the form to the IRS via email for review and approval.
3. The IRS may request that you provide a copy of someone's W-4 for inspection and will accept an electronic version.
4. You can accept a substitute form that an employee has developed as long as IRS specs are followed.

ANSWERS

Answers to the quiz:

1. *True.* If you don't have a valid form on file, withhold as if that person were single and had no other entries on the form.
2. *True.* The specifications for substitute Forms W-4 are contained in Publication 1167. The publication also explains how to email the IRS for review and approval of the forms and when that's necessary.
3. *False.* If the IRS asks to inspect certain Forms W-4, you should be prepared to produce hard copies of those forms.
4. *False.* A substitute W-4 created by an employee isn't acceptable, so you should move forward as if that person didn't furnish a form at all.

More info: www.irs.gov/taxtopics/tc753

COMPLIANCE CHECK

See where other companies went wrong – and avoid their mistakes

This feature highlights violations of federal and state laws. You can find out how other employers got off track – and help keep your company in compliance.

AZ home care provider owed more than \$500K

Employer: Urgent Home Care Inc., Phoenix.

Business: Home care provider.

Law broken: Fair Labor Standards Act's overtime and recordkeeping provisions.

Type of violation: Urgent Home Care denied employees overtime pay and instead paid them straight-time rates. In addition, the employer didn't record and pay some employees for time they spent traveling between their clients' residences.

Penalty: \$521,905 in back wages and liquidated damages to 253 employees. Plus, the employer had to pay a \$24,222 civil money penalty for willful and repeat violations – a 2016 investigation turned up similar overtime violations of federal law.

Government office: Dept. of Labor, Wage and Hour Division, Phoenix district office.

Overtime and tip problems at 3 Maine restaurants

Employer: El Grand Rodeo, South Portland, ME; El Rodeo Brunswick LLC, Brunswick, ME; and Azul Tequila LLC, Gorham, ME.

Business: Restaurants.

Law broken: Fair Labor Standards Act's overtime and tip provisions.

Type of violation: The restaurants didn't combine the hours of employees working at more than one location when calculating overtime. One restaurant failed to handle tip pools correctly

and didn't pay a overtime to a nonexempt salaried employee.

Penalty: \$51,217 in restored tips and back wages and an equal amount in liquidated damages for 25 workers.

Government office: Dept. of Labor, Wage and Hour Division, Manchester, NH, district office.

Employee said he wasn't paid for all hours worked

Employer: Advantix Logistics Corp., Lyndhurst, NJ.

Business: Staffing agency.

Law broken: Fair Labor Standards Act's anti-retaliation provision.

Type of violation: The company fired an employee after he complained to his supervisor about not being paid for all of hours worked. It also tried to stop workers from cooperating with the investigation.

Penalty: \$65,000 in damages.

Government office: Dept. of Labor, Wage and Hour Division, Mountainside, NJ, district office.

57 workers didn't receive time-and-a-half for OT

Employer: H&H Landscape LLC, Reno, NV.

Business: Landscaping company.

Law broken: Fair Labor Standards Act's overtime and recordkeeping provisions.

Type of violation: The landscaping company paid employees straight time in cash for hours over 40 in a workweek. Also, its pay records didn't include all hours worked.

Penalty: \$88,957 in back wages to 57 employees – plus, \$29,640 in civil money penalties for its willful recordkeeping violations.

Government office: Dept. of Labor, Wage and Hour Division, Las Vegas district office.

Tracking local laws and regs

■ California localities announcing higher minimum wage rates

The following locations will increase their minimum wage rates for 2023.

In **Belmont, CA**, the minimum wage will increase to \$16.75 per hour starting Jan. 1, 2023. Currently, the rate is \$16.20. **More info:** bit.ly/belmont658

The current minimum wage of \$15.60 per hour in **Burlingame, CA**, is about to go higher. In 2023, it'll be \$16.47. **More info:** bit.ly/burlingame658

Employers in **Cupertino, CA**, should prepare to pay at least \$17.20 per hour next year, up from this year's rate of \$16.40. **More info:** bit.ly/cupertino658

On Jan. 1, 2023, **Daly City, CA**, will raise its minimum wage to \$16.07, up from \$15.53. **More info:** bit.ly/dalycity658

In **East Palo Alto, CA**, you'll soon need to pay at least \$16.50 per hour to employees. That's up from the 2022 rate of \$15.60. **More info:** bit.ly/eastpaloalto658

The current minimum wage rate of \$16.37 will increase to \$17.35 on

Jan. 1, 2023, in **El Cerrito, CA**. **More info:** bit.ly/elcerrito658

The minimum wage rate will be going up in **Foster City, CA**. The new rate will be \$16.50 in 2023 (it's been \$15.75 since July 1, 2022). **More info:** bit.ly/fostercityCA658

In 2023, **Hayward, CA**, will raise the minimum wage to \$15.50 for small employers and \$16.34 for large employers. That's up from \$14.52 and \$15.56, respectively. **More info:** bit.ly/hayward658

Payroll pros in **Los Altos, CA**, should be ready for a minimum wage of \$17.20 next year (up from \$16.40). **More info:** bit.ly/losaltos658

Menlo Park, CA, plans to raise its current minimum wage rate of \$15.75 per hour to \$16.20 next year. **More info:** bit.ly/menlopark658

In **Mountain View, CA**, employers will pay a higher minimum wage next year. The rate is increasing from \$17.10 per hour to \$18.15. **More info:** bit.ly/mountainview658

Get ready – in 2023, Payroll pros will see a higher minimum wage rate in **Oakland, CA**. The current rate of \$15.06 will be raised to \$15.97. **More info:** bit.ly/oakland658

PRODUCTIVITY BOOSTERS

■ Paid time off: Do employees know what your policy is?

Updating employees on the status of their benefits before year-end can help Payroll prevent headaches.

Take paid time off, for example.

Perhaps your company allows employees to carry over only a certain number of days or hours from one year to the next.

Do employees realize you have such a policy?

Whether you provide the info or encourage them to find out online, make sure they know how much available time off they need to use.

Palo Alto, CA, has announced an increase in its minimum wage from \$16.45 per hour to \$17.25 in 2023. **More info:** bit.ly/paloalto658

■ 2023 minimum wage increase in Tucson, AZ, higher than planned

The current minimum wage rate of \$13 per hour had been slated to increase to \$13.50 on Jan. 1, 2023, in Tucson, AZ.

But due to inflation, the new rate will be \$13.85 next year.

More info: bit.ly/tucson658

REAL-LIFE SCENARIO: DID THEY GET IT RIGHT?

COBRA continuation notice sent to employee's previous mailing address

A hospital in Alabama faced this real-life scenario:

A nursing assistant at the hospital went on medical leave. After three months, the employer sent a letter saying she'd been terminated because she'd used all her leave. The letter also stated she'd be receiving a COBRA continuation notice.

The hospital sent her a COBRA continuation notice regarding dental coverage, using the same mailing address as it had for the termination letter – and the former employee received both documents. They'd been sent by someone who was filling in for the HR department head –

she'd found her address by accessing medical records.

But the former employee never received the notice about continuing her health coverage. The hospital, which maintained a self-insured health plan, used a third-party administrator (TPA) to handle claims and issue COBRA continuation notices. Although the TPA mailed the employee a notice, it had her previous address on file.

The former employee sued. She said she'd told the hospital about her address change, leaving a note in the HR department head's box and under the billing specialist's door. The

hospital, though, said it had no record of the change in her personnel file.

A federal district court didn't grant summary judgment to either party. More information was needed about whether the previous address was the last-known address to the hospital.

Checklist for compliance

COBRA continuation notices can be:

- mailed first-class using the last-known address
- sent electronically if certain conditions are met, or
- delivered by hand.

Unemployment insurance: Check your state's 2023 taxable wage base

■ HOW MUCH OF EACH EMPLOYEE'S WAGES WILL BE SUBJECT TO TAX?

While several states have announced increases to their unemployment insurance taxable wage bases for 2023, some plan decreases.

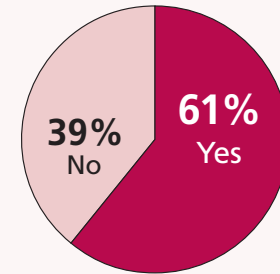
Here's the latest info (changes are underlined):

AL – \$8,000 (\$8,000)	ME – \$12,000 (\$12,000)
AK – TBA (\$45,200)	MD – \$8,500 (\$8,500)
AZ – <u>\$8,000</u> (\$7,000)	MA – \$15,000 (\$15,000)
AR – TBA (\$10,000)	MI – TBA (\$9,500)
CA – \$7,000 (\$7,000)	MN – TBA (\$38,000)
CO – <u>\$20,400</u> (\$17,000)	MS – \$14,000 (\$14,000)
CT – \$15,000 (\$15,000)	MO – <u>\$10,500</u> (\$11,000)
DE – TBA (\$14,500)	MT – <u>\$40,500</u> (\$38,100)
FL – \$7,000 (\$7,000)	NE – \$9,000 (\$9,000)
GA – \$9,500 (\$9,500)	NV – <u>\$40,100</u> (\$36,600)
HI – TBA (\$51,600)	NH – \$14,000 (\$14,000)
ID – <u>\$49,900</u> (\$46,500)	NJ – <u>\$41,100</u> (\$39,800)
IL – TBA (\$12,960)	NM – TBA (\$28,700)
IN – \$9,500 (\$9,500)	NY – <u>\$12,300</u> (\$12,000)
IA – <u>\$36,100</u> (\$34,800)	NC – TBA (\$28,000)
KS – \$14,000 (\$14,000)	ND – TBA (\$38,400)
KY – TBA (\$10,800)	OH – \$9,000 (\$9,000)
LA – \$7,700 (\$7,700)	OK – TBA (\$24,800)
	OR – TBA (\$47,700)
	PA – \$10,000 (\$10,000)
	RI – TBA (\$24,600)
	SC – \$14,000 (\$14,000)
	SD – \$15,000 (\$15,000)
	TN – TBA (\$7,000)
	TX – \$9,000 (\$9,000)
	UT – TBA (\$41,600)
	VT – <u>\$13,500</u> (\$15,500)
	VA – \$8,000 (\$8,000)
	WA – TBA (\$62,500)
	WV – \$9,000 (\$9,000)
	WI – \$14,000 (\$14,000)
	WY – <u>\$29,100</u> (\$27,700)

WHAT PAYROLL PROS TOLD US

Mental health

Do you offer mental health benefits or coverage?



Source: 2022 Employee Benefit Research Institute Financial Wellbeing Employer Survey

Mental health benefits are typically offered as part of major medical/health insurance or can be a separate service, such as an employee assistance program.

Each issue of KUDP contains an exclusive survey to give Payroll pros insight into what their peers nationwide are thinking and doing.

Cite: American Payroll Association, americanpayroll.org

SHARPEN YOUR JUDGMENT – THE DECISION

(see case on Page 2)

No, the court didn't dismiss the case.

The company had brought on the employee through a staffing agency that provided payroll and HR services. He requested time off under the Family and Medical Leave Act (FMLA) at the start of the COVID-19 pandemic, but the employer denied the request.

When the employee filed a lawsuit regarding that denied request, the company argued it was off the hook. After all, the employer said, it was the secondary employer in the joint employer relationship it had with the staffing company.

The court looked at the Dept. of Labor regs regarding joint employers and the FMLA (29 CFR Sec. 825.106). Those regs consider both:

- temporary placement agencies, and
- professional employer organizations (PEOs) – i.e.,

entities which contract with client employers to perform administrative functions such as payroll and benefits.

While a temporary placement agency typically would be a primary employer, a PEO typically would be a secondary employer, according to the regs.

The court decided the company in the case was a primary employer, because it: 1) utilized a PEO, 2) had the authority to hire and fire the employee, and 3) made the decision about whether the employee could take leave.

Analysis: Providing leave under the FMLA

Joint employers are subject to the FMLA.

Certain responsibilities, such as providing leave, fall on the primary employer. However, recordkeeping and other tasks must be taken care of by both the primary and secondary employer.

Cite: *Sosa v. New York City Housing Authority*, 22 Civ. 2460 (LGS), U.S. D.C., S.D. New York, 11/4/22.

Note: Dramatized for effect.

Industry news you can use

■ Call centers must give notice when relocating, new law says

Due to new legislation, call centers in California will need to provide notice to employees, the Employment Development Dept. (EDD) and other parties prior to ordering a mass layoff, relocation or termination.

That includes a relocation to a foreign country.

The changes fall under the California Worker Adjustment and Retraining Act.

On a semiannual basis, the EDD will compile and publish on its website a list of call center employers that provided notice.

The legislation, AB 1601, takes effect Jan. 1, 2023.

More info: openstates.org/cal/bills/20212022/AB1601/

■ Some not so sweet news for NC agricultural industry

The Dept. of Labor's Wage and Hour Division announced an outreach

assistance and enforcement initiative starting in October 2022. The focus of this latest effort? North Carolina's sweet potato farmworkers.

During fiscal years 2019-2022, the Wage and Hour Division conducted 130 investigations of the agricultural industry in the state, finding violations in 84% of them.

More info: www.dol.gov/newsroom/releases/whd/whd20221019

■ IRS announces 2023 withholding rates for railroad employees

The 2023 tax rates under the Railroad Retirement Act have been released by the IRS.

The Tier 2 rates will remain unchanged next year. The taxes are used to fund benefits for railroad employees. The rates will be:

- 4.9% – employees
- 13.1% – employers, and
- 13.1% – employee representatives.

More info: *Federal Register*, 11/29/22.

Answers to readers' most pressing Payroll questions

Whether you're a longtime Payroll person or new to the profession, no doubt you occasionally face situations that leave you scratching your head. Here, we answer common dilemmas:

How many entries can we make in box 12 of Form W-2?

Q: Are we limited to four entries in box 12 of each Form W-2 if we file electronically?

A: On Copy A of Form W-2, if you file the forms on paper or use the W-2 Online option via the SSA website, you can enter only four amounts in box 12. You'd use a separate W-2 to report additional items – sticking to the four-entry limit for each Copy A. On other copies of the form, you can make more than four entries. As for

filing electronically with the SSA, you're not limited to four entries. You can include every type of box 12 amount on each form. Given the long list of possible codes for box 12, consider these steps ahead of year-end. First, make sure that your payroll system has correctly assigned codes to various types of earnings. Second, you may want to communicate with employees regarding what the box 12 codes mean, anticipating that they may have questions when they view their wage and tax statements.

More info: www.irs.gov/pub/irs-pdf/iw2w3.pdf

Send questions to jweiss@HRMorning.com. Because of the volume of mail we receive, we regret we can't answer all submissions.

WHERE TO GET HELP

RECENT CHANGES TO FEDERAL FORMS AND PUBLICATIONS

This list of forms, instructions and other publications contains Payroll-related updates.

- Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*. Revised 2022. Posted 10/24/22.
- Publication 4757, *Individual Taxpayer Identification Number*. Revised October 2022. Posted 10/24/22.
- Publication 1693, *SSA/IRS Reporter*. Revised October 2022. Posted 10/25/22.
- Publication 1167, *General Rules and Specifications for Substitute Forms and Schedules*. Revised October 2022. Posted 10/25/22.
- Instructions for Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*. Revised 2022. Posted 10/26/22.
- Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips*. Revised 2022. Posted 10/27/22.
- Form 990 (Schedule O), *Supplemental Information to Form 990 or 990-EZ*. Revised 2022. Posted 10/27/22.
- Form 8922, *Third-Party Sick Pay Recap*. Revised 2022. Posted 10/27/22.
- Form 8889, *Health Savings Accounts*. Revised 2022. Posted 10/31/22.

The Purpose of *Keep Up to Date on Payroll*

Keep Up to Date on Payroll helps Payroll practitioners stay current with all the changing laws and regs.

The quick-read, easy-to-understand format gets right to the point, so you don't have to waste any time.

Keep Up to Date on Payroll provides timely information about new laws and regs, and gives you a heads up about coming changes – so you have plenty of time to prepare.

State law and reg changes Payroll needs to know

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ARIZONA

- **WITHHOLDING:** Form A-4, *Employee's Arizona Withholding Election*, has been updated for 2023, according to the Dept. of Revenue. The form, which reflects lower individual income tax rates, should be made available to your employees by Jan. 1, 2023. The rates are 0.5%, 1.0%, 1.5%, 2.0%, 2.5%, 3.0% and 3.5%. **More info:** bit.ly/arizona658

CALIFORNIA

- **WITHHOLDING:** The Employment Development Dept. has updated the schedules Payroll needs to withhold from employees' wages for 2023. That includes Method A, *Wage Bracket Table Method*, and Method B, *Exact Calculation Method*. Employers must use one of those methods. **More info:** edd.ca.gov/en/Payroll_Taxes/Rates_and_Withholding

COLORADO

- **FUTA TAX:** The state paid off its loan from the federal government before the Nov. 10, 2022, deadline. That means Colorado won't be among the handful of states that ended up as credit reduction states for FUTA tax purposes – which is good news for employers getting ready to file Form 940 for 2022. The credit reduction will once again be 5.4%. **More info:** leg.colorado.gov/bills/sb22-234
- **INCOME TAX:** The state income tax has decreased retroactively for TY 2022. On Nov. 8, 2022, voters passed Proposition 121, which lowered the rate from 4.55% to 4.4%. The change is retroactive to Jan. 1, 2022, and will remain

in effect next year. **More info:** bit.ly/colorado658

GEORGIA

- **WITHHOLDING:** The Dept. of Revenue has released withholding tables for next year. The information is contained in the *2023 Employer's Withholding Tax Guide*. **More info:** dor.georgia.gov/employers-tax-guide

MASSACHUSETTS

- **INCOME TAX:** Given that voters approved Question 1 on Nov. 8, 2022, a 4% tax will be imposed on income that exceeds \$1 million, starting in 2023. Meanwhile, the 5% rate on income below that threshold will still be in effect. **More info:** taxfoundation.org/question-1-massachusetts-millionaires-tax
- **MINIMUM WAGE:** You'll need to pay employees at least \$15 per hour starting Jan. 1, 2023. That's an increase from the current minimum wage of \$14.25 per hour. **More info:** www.mass.gov/orgs/the-attorney-generals-fair-labor-division

NEBRASKA

- **MINIMUM WAGE:** Due to Initiative Measure 433, which voters approved Nov. 8, 2022, the current minimum wage rate of \$9 per hour will increase to \$15 per hour over the next few years. The hourly rate will be \$10.50 on Jan. 1, 2023; \$12 on Jan. 1, 2024; \$13.50 on Jan. 1, 2025; and \$15 on Jan. 1, 2026. **More info:** sos.nebraska.gov/elections/2022-elections

SOUTH CAROLINA

- **FORM W-4:** The Dept. of Revenue has released the 2023 Form SC W-4, *South Carolina Employee's Withholding Allowance Certificate*. **More info:** dor.sc.gov/forms-site/Forms/SCW4_2023.pdf
- **WITHHOLDING:** *Formula for*

Computing South Carolina 2023 Withholding Tax is now available to be downloaded from the Dept. of Revenue. **More info:** dor.sc.gov/tax/withholding

WASHINGTON

- **MINIMUM WAGE, OVERTIME:** The state's minimum wage, which is based on the Consumer Price Index, will increase to \$15.74 per hour for 2023. That rate is used to determine the amount employees must be paid to be exempt from overtime. For small employers (1-50 employees) it's 1.75 times the minimum wage, which is \$1,101.80 a week – i.e., \$57,293.60. For large employers (51 or more employees) the amount is twice the minimum wage, which is \$1,259.20 a week – i.e., \$65,478.40 a year. **More info:** www.lni.wa.gov/news-events/article/22-026

THE LIGHTER SIDE

A North Carolina family was spending time at a cabin near Gatlinburg, TN, this fall.

All of a sudden, a furry and apparently hungry bear wandered onto the grounds.

He tried to open the doors on several vehicles – but to no avail.

Finally, he came across an unlocked van, opened the front passenger side door and crawled right inside.

Moments later, he emerged carrying a bag of popcorn between his teeth. The bear meant no harm – all he wanted from the vehicle was a snack.

That gives a whole new meaning to the phrase "bear market."

Cite: UPI, "Bear's Popcorn Theft from Van Caught on Camera in Tennessee," 11/16/22, bit.ly/bearmarket658