

Reporter

Winter 2020

A Newsletter for Employers

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Here's what taxpayers can do now to Get Ready to file taxes in 2021

There are a few steps employees can take right away to file timely and accurate individual federal tax returns in 2021. The [Get Ready page](#), updated and available on [IRS.gov](#), outlines steps everyone can take now to make tax filing easier in the coming year.

Check tax withholdings and make adjustments as soon as possible

Since most taxpayers typically only have a few pay dates left this year, checking their withholdings as soon as possible is especially important. It's even more important for those who:

- Received a smaller refund than expected after filing their 2019 taxes this year.
- Owed an unexpected tax bill last year.
- Experienced personal or financial changes that might affect their tax liability.

Taxpayers should use the [Tax Withholding Estimator](#) to conduct a quick paycheck or pension income checkup. Doing so helps them decide if they need to adjust their withholding or make estimated or additional [tax payments](#) now.

Gather tax documents and keep them for at least three years

Everyone should establish a recordkeeping system. Whether it's electronic or paper, they should create a system that stores all important information in one place. Having all needed documents on hand before they prepare their return helps them file a complete and accurate tax return. This includes:

- Their 2019 tax return.
- Forms W-2 from employers.
- Forms 1099 from banks and other payers.
- [Forms 1095-A](#), from the marketplace for those claiming the premium tax credit.
- [Form 1099-NEC](#), Nonemployee Compensation.
- [Notice 1444](#), Your Economic Impact Payment.

Confirm mailing and email addresses

To make sure forms make it to the taxpayer on time, individuals should confirm now each employer, bank and other payer has the current mailing or email address. Typically, forms start arriving by mail or are available online in January.

Remember these new things when preparing for the 2021 tax filing season

Taxpayers may be able to claim the recovery rebate credit if they meet the [eligibility requirements](#) in 2020 and one of the following circumstances apply to them:

- They didn't receive an Economic Impact Payment in 2020.
- They are single and their payment was less than \$1,200.
- They are married, filed jointly for 2018 or 2019, and their payment was less than \$2,400.
- They did not receive \$500 for each qualifying child.

Taxpayers who received a federal tax refund in 2020 may have been paid interest. The IRS sent [interest payments](#) to individual taxpayers who filed their 2019 federal income tax returns by the deadline and received refunds. Most interest payments were received separately from tax refunds. Interest payments are taxable and must be reported on 2020 federal income tax returns. In January 2021, the IRS will send a [Form 1099-INT, Interest Income](#), to anyone who received interest totaling \$10 or more.

To learn more, read [Publication 5348, Get Ready to File \(.pdf\)](#), and [Publication 5349, Year-end tax planning is for everyone \(.pdf\)](#). IRS

2020 revisions to Income Withholding for Support

The federal Office of Child Support Enforcement (OCSE) published a revised version of the [Income Withholding for Support \(IWO\) form and instructions](#), which expires September 30, 2023. Child support agencies may continue to send the 2017 version of the IWO until September 30, 2021, to allow them time to update their automated systems. Employers should continue to honor the 2017 version until October 1, 2021.

Key changes include:

- Added section titles and numbers for ease in referencing areas of the form.
- Changed the effective date from a calendar date to a text entry to clarify that IWOs are effective on either the date of mailing, receipt or service to the employer.
- Simplified wording for employers and other income payers.
- Moved some material from Additional Information to Remittance Information.
- Added a textbox to Remittance Information regarding payments in interstate cases.
- Moved the OCSE Child Support Portal link from the beginning of the Additional Information section to the Lump Sum Payments subsection.
- Added a link to the Portal to Notice of Employment Termination or Income Status

If you have questions about the revised IWO or income withholding in general, contact the OCSE Employer Services team at employerservices@acf.hhs.gov.

Free tax preparation programs help employees and communities

Employees may be eligible for free tax preparation through the IRS-sponsored Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs.

VITA sites offer tax help to taxpayers who generally make \$57,000 or less, have disabilities, and who speak limited English.

The TCE program also offers free tax help, particularly for those who are 60 years of age and older.

Historically, most VITA and TCE sites offered in-person tax preparation. However, some sites now offer virtual service, using video or telephone calls. Alternatively, some sites offer Facilitated Self Assistance (FSA) where the taxpayer prepares their own tax return while IRS-certified volunteers are available to answer FSA users' tax law questions.

These programs ask employers to please let eligible employees know about this free benefit. They can find more information at [IRS.gov/VITA](https://www.irs.gov/VITA).

Organizations may be able to provide free VITA services to their employees directly or may elect to open a VITA site to help people in the community. Visit [IRS.gov](https://www.irs.gov) to learn more about [becoming an IRS partner](#). IRS

IRS issues final rules for meals and entertainment expenses

The IRS released final rules that address the elimination of the deduction under Internal Revenue Code (IRC) § 274 for expenses related to entertainment, amusement or recreation activities. The rules provide guidance to determine whether an activity is generally considered entertainment and discusses limitations on employer deduction of food and beverage expenses (85 Fed. Reg. 64026, 10-9-2020). The final rules became effective on October 9, 2020.

Background

The Tax Cuts and Jobs Act (TCJA) revised the rules for deducting expenses for meals and entertainment incurred after December 31, 2017. Generally, IRC § 274(a)(1)(A) disallows a deduction for any item considered entertainment, amusement, or recreation. However, prior to the TCJA, this section provided exceptions to the disallowance if the taxpayer established:

- The item was directly related to the active conduct of the employer's trade or business (directly related exception), or
- The item was associated with the active conduct of the employer's trade or business (business discussion exception), in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise).

IRC §§ 274(e)(1)-(9) also provides exceptions to allow a deduction for entertainment expenditures. The TCJA did not change the entertainment exceptions. Prior to the TCJA, IRC § 274(n)(1) generally limited the deduction of food or beverage expenses and entertainment expenses to 50% of the amount that otherwise would have been allowable. Thus, under prior law, taxpayers could deduct 50% of meal and entertainment

expenses that met the directly related or business discussion exception. Distinguishing between meal expenses and entertainment expenditures was unnecessary.

However, the TCJA repealed the directly related and business discussion exceptions to the general prohibition on deducting entertainment expenditures in IRC § 274(a)(1)(A). The TCJA also removed the entertainment reference from IRC § 274(n)(1) as they were no longer deductible unless one of the nine exceptions applied. While the TCJA eliminated the deduction for entertainment expenses, Congress did not amend the provisions relating to the deductibility of business meals. Thus, taxpayers largely may continue to deduct 50% of the food and beverage expenses associated with operating their trade or business, including meals consumed by employees on work travel. However, as before the TCJA, there is no deduction for food and beverages unless (a) the expense is not lavish or extravagant, and (b) the employer (or its employee) is present.

The TCJA repealed the substantiation requirements for entertainment expenditures. Traveling expenses, including meals and lodging while away from home, however, remain subject to the IRC § 274(d) substantiation requirements.

Notice 2018-76 guidance

On October 15, 2018, the IRS published [Notice 2018-76](#), which provided transitional guidance on the deductibility of expenses for certain business meals, and requested comments for future guidance to clarify the treatment of meal and entertainment expenses under IRC § 274.

The notice states that taxpayers may continue to claim an income tax deduction equal to 50% of an otherwise allowable business meal expense if:

- The expense is an ordinary and necessary expense under IRC § 162(a) paid or incurred during the taxable year in carrying on any trade or business;
- The expense is not lavish or extravagant under the circumstances
- The taxpayer, or an employee of the taxpayer, is present when food or beverages are provided;
- The food and beverages are provided to a current or potential business customer, client, consultant, or similar business contact; and
- In the case of food and beverages provided during or at an entertainment activity, the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices or receipts.

The entertainment disallowance rule may not be circumvented through inflating the amount charged for food and beverages.

Meal expenses under the final regulations

Entertainment expenditures. The final regulations restate the statutory rules under IRC § 274(a), including the application of the entertainment deduction disallowance rule to dues or fees to any social, athletic, sporting club or organization. The existing definition of entertainment in Treas. Reg. § 1.274-2(b)(1), with minor modifications to remove outdated language, is incorporated into the final regulations. The final regulations provide that the term “entertainment” does not include food or beverages unless the food or beverages are

provided at or during an entertainment activity and the costs of the food or beverages are not separately stated from the entertainment costs. The final regulations do not affect the application of the special rules to expenses related to aircraft used for entertainment.

Exceptions allowed. The final rules continue to include the exceptions under IRC §§ 274(e)(1)-(9) to allow a deduction for entertainment expenditures.

Travel meals. In the final regulations, the IRS applies the general rules for meal expenses in Notice 2018-76 to travel meals. They also apply the substantiation requirements in IRC § 274(d) to travel meals.

Separately stated food or beverages. The final regulations substantially incorporate the guidance in Notice 2018-76 to distinguish between entertainment expenditures and food or beverage expenses in the context of business meals provided at or during an entertainment activity. In addition, the final regulations generally apply Notice 2018-76 to all food or beverages, including travel meals and employer-provided meals, provided at or during an entertainment activity. The final regulations clarify the amount charged for food or beverages must reflect the venue's usual selling cost for those items if they were to be purchased separately from entertainment or must approximate the reasonable value of those items.

Business meal expenses. The final regulations substantially incorporate guidance in Notice 2018-76 for business meals provided at or during an entertainment activity.

Wording change. The final rules remove the phrase "to another person or persons" and add "to the taxpayer" to emphasize that the taxpayer can receive a food and beverage expense deduction for food or beverages the taxpayer provides.

Employer-provided meals. For employer-provided meals at an eating facility, food or beverage expense, do not include expenses for operating the facility. These expenses, like other food or beverage expenses, generally are subject to the 50% limitation unless an exception applies. *Note:* Beginning with amounts paid or incurred in 2026, expenses for food or beverages provided to employees, as well as expenses for the operation of certain eating facilities for employees, will be fully nondeductible.

Under the final regulations, the deduction limit does not apply to business meals, travel meals, or other food or beverages qualifying for one of the exceptions in IRC § 274(e).

Recreational expenses. The final regulations provide that any food or beverage expenses paid or incurred by an employer for a recreational, social or similar activity, primarily for the benefit of the employer's employees, is not subject to the deduction limitations. However, activities that discriminate in favor of highly compensated employees, officers, or shareholders are not considered paid or incurred primarily for the benefit of employees.

The final regulations confirm the exception still applies to food or beverage expenses for company holiday parties, annual picnics or summer outings that do not discriminate in favor of highly compensated employees. However, the exception does not apply to free food or beverages provided in a break room because the mere provision or availability of food or beverages "is not a recreational, social, or similar activity, despite the fact that employees may incidentally socialize while they are in the break room."

Meals provided for the convenience of the employer. The final regulations provide that the exception does not apply to food or beverage expenses already excludable under IRC § 119 as meals provided for the convenience of the employer. Because these food or beverages are, by definition, furnished for the employer's convenience, they cannot also be primarily for the benefit of the employees, even if employees socialize during this time. **APA**

Common errors businesses should avoid when claiming employer tax credits

Employers who are filing **Form 941, Employer's Quarterly Federal Tax Return** and claiming an employer tax credit should read the instructions carefully and take their time when completing the form to avoid mistakes.

Using a reputable **tax preparer**, including certified public accountants, **enrolled agents** or other knowledgeable tax professionals, can also help avoid errors. Mistakes can result in a processing delay or a balance due notice or require filing an amended return.

Here are some common mistakes to avoid when completing Form 941:

- **Reporting advances requested instead of the advance payments of credits received.** If the employer hasn't received the advance payment of credit they requested, it should not be reported on their 941.
- **Incorrectly reconciling the advance payment of the credit requested and received.** If an employer has received the advance payment requested, they must reconcile it on Form 941 by reporting the advance payments received on line 13f and claiming the credits they are eligible for on lines 11b, 11c, 13c, and 13d.
- Form 7200 is used to **request** the advance payment of employer credit. It is not **used** to claim the credit.
- If the employer receives an advance payment of credit, but doesn't report it on Form 941, they may receive a balance due notice.
- If a taxpayer receives a balance due notice, they will need to file an amended return using Form 941-X to report their advance payments and claim their eligible credits. Employers using third-party payers or reporting agents must tell their third-party payer or agent they requested and received an advance payment of credit. These third-party payers and reporting agents should also ask employers if they requested and received an advance payment of credit using **Form 7200, Advance Payment of Employer Credits Due to COVID-19**.

More information:

- **Form and Instructions for 7200**
- **Coronavirus tax relief**
- **Employer credits**
- **COVID-19-Related Tax Credits for Required Paid Leave Provided by Small and Midsize Businesses FAQs** IRS

Businesses should file Form 1099-MISC and new Form 1099-NEC with recipients by Feb. 1, 2021

The Internal Revenue Service reminds businesses and other payors that Form 1099-MISC and new Form 1099-NEC, for non-employee compensation, are generally due to recipients by February 1, 2021. There are other due dates depending on boxes utilized on the Form 1099-MISC.

Redesigned Form 1099-MISC

Due to the creation of Form 1099-NEC, the IRS revised Form 1099-MISC and rearranged box numbers for reporting certain income.

If filing on paper, the deadline to file **Forms 1099-MISC, Miscellaneous Income** (copy A), with the IRS is March 1, 2021. Normally, the due date is February 28. However, since February 28, 2021, falls on a Sunday, employers have until Monday, March 1, 2021, to file. If filing electronically, the deadline to file is March 31, 2021.

The Form 1099-MISC is generally due to recipients by February 1, 2021. Normally, the due date to furnish Form 1099-MISC to recipients is Jan. 31, but because that date falls on a Sunday, the due date moves to the next business day, which is February 1, 2021.

There is an exception for forms reporting amounts in box 8, Substitute payments in lieu of dividends or interest, or box 10, Gross proceeds paid to an attorney, of the 1099-MISC. In these cases, the form must be furnished to recipients by February 16.

New Form 1099-NEC

The 1099-NEC is a new form for tax year 2020 (filed in 2021) to be issued for nonemployee compensation of \$600 or more to a payee. This form should be filed with the IRS (on paper or electronically) and furnished to recipients by February 1, 2021. Normally, the due date is January 31, but because that date falls on a Sunday in 2021, the due date is pushed to the next business day, which is Monday, February 1.

There is no automatic 30-day extension to file Form 1099-NEC. However, an extension to file may be available under certain hardship conditions. Also, nonemployee compensation may be subject to backup withholding if a payee has not provided a taxpayer identification number to the payer or the IRS notifies the payer that the Taxpayer Identification Number provided was incorrect.

Deadlines help fraud detection

The normal January furnishing date for information returns such as Forms 1099-MISC and 1099-NEC means that the IRS can more easily detect refund fraud by verifying income that individuals report on their tax returns. Payers can help support that process, and avoid penalties, by filing the forms on time and without errors. The IRS recommends **e-file** as the quickest, most accurate and convenient way to file these forms. IRS

For more information, the instructions for **Forms 1099-MISC and 1099-NEC** are available on IRS.gov.



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