

Social Security Administration

Internal Revenue Service

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Reporter

Winter 2015

A Newsletter for Employers

Understanding the Roth account in your retirement plan

Consider your options if you participate in a 401(k), 403(b) or governmental 457(b) retirement plan that has a designated Roth account. With a Roth account, you can:

- make after-tax contributions to the Roth account; and
- if the plan permits, roll over certain amounts in your other plan accounts to the Roth account.

Designated Roth contributions

Unlike pre-tax salary deferrals, which are not taxed when you contribute them to the plan, you have to pay taxes on your Roth contributions. This means your gross income for the year you make Roth contributions will be higher than if you had made only pre-tax salary deferrals.

However, any pre-tax salary deferrals and related earnings are taxable when you withdraw them from the plan. Roth contributions, on the other hand, are not taxed when you withdraw them from the plan. Earnings on Roth contributions are also not taxed when they are withdrawn from the plan if your withdrawal is a qualified distribution. A "qualified distribution" is a distribution that is made:

- at least 5 years after the first contribution to your Roth account; and
- after you're age 59½ or on account of your being disabled, or to your beneficiary after your death.

In-plan Roth rollovers

Your plan may allow you to transfer amounts to your Roth account in the plan if the amounts are:

- eligible rollover distributions from your other plan accounts; or

- any amounts, including those not otherwise eligible for a distribution, from your other plan accounts.

You must include in gross income in the year of transfer any previously untaxed amount you roll over to your plan's Roth account.

You don't include in gross income any withdrawal of the amount you rolled over to the Roth account. However, you may have to pay tax on the earnings on the rolled over amounts that are withdrawn, unless the withdrawal is a qualified distribution.

Check with your employer if your plan has a Roth account and if it allows in-plan Roth rollovers.

Additional Resources:

- Designated Roth accounts – information on contributing to a plan's Roth account.
- Designated Roth Accounts: Frequently Asked Questions – answers questions on Roth contributions, taxes on distributions, and on rollovers to and from designated Roth accounts.
- Publication 4530, Designated Roth Accounts under 401(k), 403(b) or governmental 457(b) plans – information about making Roth contributions in these plans.
- Roth Comparison Chart – Comparison of Roth 401(k), Roth IRA, and Traditional 401(k) Retirement Accounts. 

IRS resource helps employers understand the Health Care Law

The [ACA Information Center for Applicable Large Employers](#) page on [IRS.gov](#) features information and resources for employers of all sizes on how the health care law may affect them if they fit the definition of an applicable large employer.

The web page includes the following sections:

- What's Trending for ALEs,
- How to Determine if You are an ALE,
- Resources for Applicable Large Employers, and
- Outreach Materials.

Visitors to the new page will find links to:

- Detailed information about tax provisions including information reporting requirements for employers,

- Questions and answers, and
- Forms, instructions, publications, health care tax tips, flyers and videos.

Although the vast majority of employers will not be affected, you should determine if you are an applicable large employer. If you averaged at least 50 full-time employees, including full-time equivalent employees, during 2014, you are most likely an ALE for 2015. If you have fewer than 50 full-time employees, you may be considered an applicable large employer if you share a common ownership with other employers. As an applicable large employer, you should be taking steps now to prepare for the coming filing season.

In 2016, applicable large employers must file an [annual information return](#) – and provide a statement to each full-time employee – reporting whether they offered health insurance, and if so, what insurance they offered their employees.

If you will file 250 or more information returns for 2015, you must file the returns electronically through the ACA Information Reports system. You should review draft [Publication 5165, Guide for Electronically Filing Affordable Care Act \(ACA\) Information Returns](#), now for information on the communication procedures, transmission formats, business rules and validation procedures for returns that you must transmit in 2016. 

Plan to attend the 2016 Child Support Employer Symposium

The fourth Child Support Employer Symposium is scheduled for May 5, 2016, in conjunction with the Eastern Regional Interstate Child Support Association (ERICSA) annual conference. This year's symposium in Myrtle Beach, SC, will give attendees a forum to discuss program innovations and improvements.

OCSE and the National Child Support Enforcement Association (NCSEA) hosted the first employer symposium in 2005 to demonstrate that

our private and public sector employers are important partners who play a key role in the success of the child support program. Participants included employers and representatives from child support agencies, the judiciary, OCSE, and other stakeholder organizations. They exchanged practical ideas and approaches on various topics. In many cases, they expressed a need to implement changes to their programs and processes based on information they learned during the discussions.

In 2011 and 2014, NCSEA and ERICSA hosted symposiums so experts from various child support, employer, judicial, and other organizations could discuss ways to improve operations and communication. They identified short- and long-term solutions that they have considered implementing.

Go to the [ERICSA](#) website in mid-December to find out more information and to register for the 2016 Symposium. 

Help spread the word about EITC

Earned Income Tax Credit is a tax credit that can return as much as \$6,242 to people earning less than \$53,267. EITC puts money in the hands of hard-working employees and can be a significant financial boost to individuals and their families. IRS estimates four of five eligible workers claim and get their EITC. You can help reach the fifth worker, the one who overlooks this tax credit.

Workers move in and out of EITC eligibility based on their tax filing status, the number of qualifying children they can claim and their financial situation. Every year, approximately one-third of newly eligible taxpayers will

qualify for EITC. This turnover rate requires continuous promotion of this beneficial credit.

EITC is not automatic. To get EITC, eligible workers must file a federal income tax return, even if they are not otherwise required to file, and they must specifically claim the credit. Go to www.irs.gov/eitc for more information about EITC.

There is also an online tool, the [EITC Assistant](#), which will be available on [IRS.gov](#) early January 2016. Your constituents don't need to guess about EITC eligibility – they should use the EITC Assistant to find out for sure.

Also, when checking your eligibility for EITC, don't overlook [other tax credits](#) for which you may qualify.

EITC Awareness Day is January 29, 2016

On Friday, January 29, groups engaged in financial literacy and tax education will work together to raise awareness of EITC by holding events, issuing statements and posting to social media. You are encouraged to do the same or to partner with the efforts of other organizations. 

American Payroll Association outlines tips for year-end

Every year-end brings new challenges for payroll professionals. This year may be exceptionally challenging because this is the first year that employers will be required to report health care information pursuant to the Affordable Care Act (ACA). To help you prepare for a successful year-end and 2016, the American Payroll Association offers the following tips to help you complete your year-end processing accurately and timely.

Many of these suggestions come from the APA's most popular seminar, *Preparing for Year-End and 2016*. To view the webinar version of this time saving and educational program, visit [Preparing for Year-End and 2016](#) and register today. The APA also has specialized webinars for payroll professionals in the government or public sector, and for those who process Canadian payrolls. Visit [Government/Public Sector Year-End and 2016](#) and [Canadian Payrolls Preparing for Year-End and 2016](#) to learn more.

The following tips provide a broad overview of common year-end issues for payroll professionals. Keep in mind that each state has separate regulations affecting payroll of which you should be aware.

Communication is key

Communication with employees is a key element to a successful year-end process. Errors and simple misunderstandings may be avoided through effective communication with your employees. This year employers are likely to face new questions concerning ACA reporting. Employers should be prepared to explain why employees may have received a request for the social security number (SSNs) of their spouse or children. Employers should also be prepared to explain why the employee has received a Form 1095-C and/or 1095-B.

SSN requests. Because health insurance providers must report the SSN for each individual they cover, employees may receive a request for the SSN of their spouse or children. Employers should explain that the information will be used in conjunction with required ACA reporting. By not providing the SSN, the employee increases the risk of the IRS not being able to verify information on their tax return, which could result in a penalty notice. For additional information, see the IRS webpage, [Questions and Answers about Reporting Social Security Numbers to Your Health Insurance Company](#).

Forms 1095-C and/or 1095-B. Employees are likely to have questions about the new ACA forms. Employers can help to educate their employees by explaining that the forms will be used to report health coverage information to the IRS. The forms report what coverage was offered to the employee and what months the employee had insurance coverage. The employee will use this information to complete their individual tax return. Unlike the W-2, this form does not need to be attached to the tax return. Employees should review the form to ensure that the information is correct. Additional information may be found in the Instructions for Recipient section of [Form 1095-C](#) and in [Affordable Care Act Questions and Answers](#) posted to the IRS website.

Standard reminders. In addition to the new communication efforts related to the ACA reporting, employers should continue to send reminders to their employees concerning year-end procedures and deadlines. The APA suggests the following reminders:

Remind employees to review all information (i.e., name and address) on their pay stub to verify that it is correct. This will help reduce returned Forms W-2.

Remind employees to review the marital status and number of withholding allowances claimed on Form W-4 and to make changes if needed, (i.e., did the employee get married, including same-sex marriages, get divorced, or need to change the number of dependents).

Before issuing an employee's original W-2, inform employees if you intend to charge a fee for a replacement Form W-2.

Remind employees who anticipate liability for the additional Medicare tax that they may ask the employer to withhold an additional amount of income tax by adjusting their Form W-4.

Remind employees claiming "exempt" from withholding to submit a new Form W-4 in time for the processing of paychecks dated after February 16, 2016, if the employee wants to continue to claim "exempt" and is qualified to do so.

Notify employees who have no income tax withheld that they may be able to claim a refund because of the Earned Income Tax Credit (EITC).

Remind employees if your health FSA has a grace period for early 2016 claims or a carryover provision for up to \$500 of the contributions made to the FSA in 2015. Also, inform your employees that the salary reduction limit for health FSA contributions for plan years beginning in 2016 will be \$2,550, which is unchanged from the 2015 limit.

Notify employees of SDI tax rate and wage base changes.

Notify employees that the contribution limit for 401(k), 403(b), most 457 plans, and the federal government's Thrift Savings Plan remains at \$18,000 for 2016. The catch-up contribution limit for employees who are 50 years or older remains unchanged at \$6,000 in 2016. [APA](#)

IRS focuses on improving the taxpayer experience

The IRS once again shows it wants to make the filing process easier by implementing three new initiatives:

- [Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501\(c\)\(3\) of the Internal Revenue Code](#)
- [Applications for Enrollment – Joint Board for the Enrollment of Actuaries](#)

■ Streamlined Offshore Filing Compliance Procedure

These newest initiatives join a line of other initiatives also aimed at improving the taxpayer experience.

But they're not done. The IRS would like to hear your ideas on how to improve the taxpayer experience too. So, if you have ideas about how

to simplify reporting requirements, streamline IRS procedures, or shorten forms, share them today!

Use [Form 13285A, Reducing Tax Burden on America's Taxpayers](#), to submit your ideas. Visit the [Taxpayer Burden Reduction website](#) for more information. [IRS](#)

Make a payment anytime, anywhere

Consider sharing this information with your employees during the tax filing season. As they are filing their taxes this year, if they owe, they may want to consider paying with one of the online payment options IRS offers. Whether they pay at home, or on the go with their smartphones, IRS offers [electronic payment options](#) that are easy and secure, and much faster than mailing in a check or money order or going to an IRS office.

To make a tax payment from their mobile devices with the [IRS2Go](#) app they can choose either [Direct Pay](#) or [debit and credit card](#) payments.

IRS Direct Pay is free and they can securely pay their tax directly from their checking or savings accounts, schedule payments up to 30 days in advance, and receive instant confirmation that they submitted their payment.

Both paper and electronic filers can pay their taxes by phone or online through any of the authorized debit and credit card processors. Though the IRS does not charge a fee for this service, the card processors do. Your employees can find the authorized card processors and their phone numbers on www.irs.gov/Payments.

IRS2Go is the official smartphone app of the IRS. With IRS2Go your employees can check their refund status, find free tax preparation assistance; sign up for helpful tax tips, and follow the IRS on Twitter, Tumblr, and YouTube. IRS2Go is available for download on Google Play, the Apple App Store or Amazon, and your employees can make their payments when it's convenient for them. 

Tax tips explain new health care information reporting forms

Health coverage providers and certain employers will provide health coverage statements to covered individuals for the first time in 2016. The IRS issued two Health Care Tax Tips about new health care law information reporting forms: [Form 1095-B, Health Coverage](#), and [Form 1095-C, Employer-Provided Health Insurance Offer and Coverage](#).

Form 1095-B is used to report certain information to the IRS and to taxpayers about individuals who are covered by minimum essential coverage and therefore aren't liable for the individual shared responsibility payment. By Jan. 31, 2016, health

coverage providers should furnish you a copy of Form 1095-B, if you are identified as the "responsible individual" on the form.

Form 1095-C is used to report information to the IRS and to employees about individuals who have minimum essential coverage under the employer plan and therefore are not liable for the individual shared responsibility payment for the months that they are covered under the plan. Employers with 50 or more full-time employees in the previous year use Form 1095-C to report the information required about offers of health coverage and enroll-

ment in health coverage for their employees. An employer must furnish a Form 1095-C to each of its full-time employees by Jan. 31 of the year following the year to which the Form 1095-C relates.

Like last year, the Health Insurance Marketplace will issue [Form 1095-A, Health Insurance Marketplace Statement](#) in Jan. 2016 to individuals enrolled in Marketplace coverage during 2015. Find more information about the tax provisions of the health care law at IRS.gov/aca. 

Form 8955-SSA...

Does your retirement plan have participants who have separated from service and have deferred vested benefits? List them on Form 8955-SSA ([Resources](#)).



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Steps to facilitate a smooth year-end process and kick start 2016

As you plan your year-end process, there are numerous tasks and deadlines that you can build into your schedule that will help you complete the process in a timely manner. Some of these tasks include:

In December

Collect benefit and payroll adjustment information and post it to employees' payroll, including relocation assistance, educational assistance, group-term life insurance, third-party sick pay, company cars, off-cycle checks, and void checks.

Schedule any special bonus payrolls for the current year.

Verify that all stop payments, voids, and manual checks have been processed.

Order Forms W-2 and Forms 1099-MISC [here](#) from the IRS for all employees and independent contractors who worked for your company this year. Be sure to order an extra supply of forms to allow for any mistakes. Also, consider preparing, printing, and filing your Forms W-2 online at SSA's [Business Services Online](#). Remember that electronic filing is required if you have 250 or more Forms W-2 to file.

Verify your employees' names and Social Security Numbers (SSNs) with SSA's [Social Security Number Verification Service](#).

In December and January

Check to see if Congress has renewed any tax provisions. As of November 16, 2015, Congress has not passed the traditional tax extender legislation and it is unclear which provisions may be renewed.

It is possible that some provisions, including parity in the qualified transportation fringe benefits, and the Work Opportunity Tax Credit for hiring certain employees, such as qualified veterans, will be renewed retroactively to the beginning of 2015.

Without additional congressional action, the 2016 excludable amount for qualified transportation fringe benefits will increase to \$255 (up from \$250) per month for parking benefits and will remain the same at \$130 per month for mass transit benefits (i.e., transit passes and vanpools).

Obtain new forms, withholding tables, and publications from IRS.

Review the Social Security wage base (\$118,500 for 2016), deferred compensation limits, and mileage rate.

Notify employees of applicable changes and any actions they must take.

Verify the employer's state unemployment insurance tax rate and taxable wage limit for each state where the employer has workers.

Compute uncollected Social Security and Medicare taxes for retirees and former employees.

Calculate the cost of employer-provided health coverage, if required, and verify it will appear on Form W-2 in box 12 using code DD.

In January

Reconcile Forms W-2 and W-3 totals against Forms 941 for 2015.

Run a report to verify W-2 information before printing the forms for each employee.

Verify that you have an SSN for each employee.

Review employees' Forms W-2 who have wages higher than the Social Security wage base (\$118,500 for 2015), who have benefits that must be reported in box 10 or box 12, or who have statuses that must be checked in box 13.

Purchase postage for mailing Forms W-2, 1099-MISC, and 1095-C if they are not provided electronically.

If your company offers any pre-tax deductions, prepare a notice for delivery to employees that explains the calculations of the numbers in boxes 1, 3, and 5 on Form W-2.

By February 1 (these deadlines are normally January 31, but will be extended in 2016 because January 31 falls on a Sunday)

Deliver or mail Forms W-2, *Wage and Tax Statement*, to all 2015 employees and Forms 1099-MISC to all 2015 independent contractors.

Deliver or mail Forms 1095-C, *Employer-Provided Health Insurance Offer and Coverage*, to all 2015 full-time employees.

File Form 941, *Employer's Quarterly Federal Tax Return*; Form 943, *Employer's Annual*

Federal Tax Return for Agricultural Employees, or Form 944, *Employer's Annual Federal Tax Return*; and Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*.

The normal deadline for filing Forms 940, 941, 943, and 944 is February 1, 2016. If all taxes have been deposited when due, the deadline for filing is extended to February 10.

By February 17

For any employee who claimed "exempt" from withholding in 2015, but has not submitted an exempt 2016 W-4, begin withholding based on the most recent, valid, non-exempt W-4 in the employee's file. If you do not have one, withhold based on a marital status of "single" and zero withholding allowances.

By February 29 (2016 is a leap year and February 28 falls on a Sunday)

File paper Forms W-2 (Copy A) and W-3 with the Social Security Administration. If you file electronically, the deadline for submitting these forms is extended to March 31, 2016.

File paper Forms 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*, and Forms 1095-C with the Internal Revenue Service. If you file electronically, the deadline for submitting these forms is extended to March 31, 2016.

File Form 8922, *Third-Party Sick Pay Recap*, with the IRS. Note: The employer will file Form 8922 if sick pay is reported on Form W-2 under the agent or insurance company's name and EIN. The agent or insurance company will file Form 8922 if sick pay is reported on Form W-2 under the employer's name and EIN. Form 8922 must be filed on paper for tax year 2015.

Editor's Note: The American Payroll Association's strong partnership with the IRS and SSA allows it to prepare its classes and publications, such as *The Payroll Source*®, with the most accurate and up-to-date information to educate employers. More APA information is available at www.americanpayroll.org.

APA

A reminder for small businesses: Get forms

If you'll need blank Forms W-2, W-3 or 1099, don't wait until the last minute.

Taxpayer demand for paper tax products is declining because of an increase in e-filing and the availability of products online. Due to the decreased demand and the cost of printing and shipping, the IRS will no longer stock Forms W-2, W-3, and 1099 in Taxpayer Assistance Centers. The forms, which are regularly used by small business owners, can be ordered online or by telephone. Orders are delivered directly to the taxpayer's home or business address.

- To order online, click on the hyperlink provided below.
 - <https://www.irs.gov/Businesses/Online-Ordering-for-Information>Returns-and-Employer>Returns>
- To order by phone, call 1-800-829-3676.
- Some office supply stores sell these forms.

The Social Security Administration offers an online option to create and file electronic Forms W-2. File Forms W-2/W-2c and W-3/W-3c electronically by visiting the [Social Security Administration's Employer Reporting Instructions and Information website](#) to create and file electronic fill-in versions of Forms W-2 and W-3. 

Get to know the retirement plans recent developments

Read recent developments that may affect your retirement plan:

- [IRS Announces 2016 Pension Plan Limitations; 401\(k\) Contribution Limit Remains Unchanged at \\$18,000 for 2016](#) - costofliving adjustments affecting dollar limitations for pension plans and other retirement-related items for tax year 2016. In general, the pension plan limitations won't change for 2016.
- [List of Pre-Approved 403\(b\) Plans](#) - This list includes prototype and Volume Submitter plans submitted to the IRS for opinion or advisory letters from June 28, 2013 to September 09, 2015, covering the final regulations under IRC 403(b) issued in 2007.
- [Most Retirees Need to Take Required Retirement Plan Distributions by Dec. 31](#) - reminder for taxpayers born before July 1, 1945: you generally must receive payments from your IRAs and workplace retirement plans by Dec. 31.
- [Small Business Retirement Plan Resources](#) – include choosing a plan, operating and maintaining a plan, correcting plan errors and additional resources.

To make sure you receive the latest retirement plans news, [subscribe](#) to the free IRS newsletter Employee Plans News. Also visit (and bookmark) the [Tax Information for Retirement Plans](#) Web page on IRS.gov for other retirement plan resources, such as:

- Resources for individuals
- Retirement plan administration
- Types of retirement plans
- Retirement plans FAQs
- Webinars and phone forums
- Forms and publications
- Correcting plan errors



Reporter

Spring 2016

A Newsletter for Employees

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What you need to know about retirement plans

Read recent developments that may affect your retirement plan:

- [Changes to Voluntary Correction Program compliance fees](#) – includes reduced fees for most 401(a) and 403(b) plans
- [Disaster relief for retirement plan and IRAs](#) – determine when certain retirement plan and IRA deadlines may be extended for affected taxpayers
- [Revisions to the Employee Plans Determination Letter Program](#) (Notice 2016-3) – changes include extension of the period from April 30, 2016, to April 30, 2017, during which certain employers may establish or adopt a defined contribution pre-approved plan on or after January 1, 2016, and may, if eligible, apply for a determination letter.
- [Treatment of same-sex marriages](#) – additional guidance for retirement plans (Notice 2015-86)
- [IRS Video Portal](#) – view webinars on retirement plan issues

To make sure you receive the latest retirement plans news, [subscribe](#) to the free IRS newsletter Employee Plans News. Also, visit (and bookmark) the [Tax Information for Retirement Plans](#) Web page on IRS.gov for other retirement plan resources. 



Stay in compliance with APA's Payroll Tax Forum

Payroll is one of the most regulated aspects of any business. The cost of noncompliance is steep. By attending an American Payroll Association (APA) Payroll Tax Forum, a one-day course offered in 18 cities nationwide, June 13 - 24, 2016, you can avoid penalties by learning about the latest payroll-related changes from Congress and federal agencies such as the IRS, SSA, DOL, and the Department of Homeland Security.

Topics include: the health insurance data reporting required by the Affordable Care Act, the taxation and reporting of executive employee compensation, preparing for the proposed increase to the white collar exemption minimum salary requirement, and planning for the accelerated W-2 and 1099 filing due dates.

The class also includes a review of recent legislative and regulatory changes, a review of the annually adjusted wage bases and benefit limits, and a discussion of revisions to IRS forms and publications. Payroll directors and managers, tax and compliance officers, controllers, CFOs, treasurers, and anyone else involved in your organization's payroll should not miss this opportunity. For more information, visit the APA [website](#). 

A review of payroll record retention requirements

Once you complete your year-end payroll processes, you should consider cleaning up your old files. Determining which records you can destroy and which records you must retain can be tricky. This year, you may also need to add Affordable Care Act (ACA) healthcare information to your record retention process. Because of the complexities involved, the APA offers this basic guideline of payroll record retention requirements.

The Internal Revenue Code requires all employers that withhold and pay federal income, social security, and Medicare taxes to maintain certain records for each employee. Failure to meet these requirements can result in sizable penalties and large settlement awards if you are unable to provide the required information when requested by the IRS or in an employment-related lawsuit.

Income, Social Security, and Medicare Taxes

Employers must keep income, social security, and Medicare tax records for at least four years after the due date of the employee's personal income tax return (generally, April 15) for the year in which the payment was made, including:

- The Employer Identification Number (EIN);
- The employee's name, address, occupation, and social security number;
- The total amount and date of each payment of compensation and any amount withheld for taxes or otherwise, including reported tips and the fair market value of non-cash payments;
- The amount of compensation subject to withholding for federal income, social security, and Medicare taxes, and the corresponding amount withheld for each tax (also the date withheld if withholding occurred on a different day than the payment date);
- The pay period covered by each payment of compensation;
- If applicable, the reason(s) why the total compensation and the taxable amount for each tax rate are different;
- The employee's Form W-4, *Employee's Withholding Allowance Certificate*;
- Each employee's beginning and ending dates of employment;
- Any statements provided by the employee reporting tips received;
- Fringe benefits provided to the employee and any required substantiation;
- Adjustments or settlements of taxes; and
- Amounts and dates of tax deposits.

In addition, employers must hold onto information regarding wage continuation payments made to the employee by an employer or third party under an accident or health plan. This should

include the beginning and ending dates of the period of absence from work and the amount and weekly rate of each payment (including payments made by third parties). You also need to keep copies of the employee's Form W-4S, *Request for Federal Income Tax Withholding From Sick Pay*. If applicable, you should also retain copies of Form 8922, *Third-Party Sick Pay Recap*. These items must also be kept for four years after the due date of the employee's personal income tax return for the year in which the payment was made.

Likewise, copies of returns filed (on paper or electronically), including Forms 941 (with Schedule B, D, and/or R, as applicable), 943, 944, 945, 941-X, W-3, Copy D of Form W-2, and any Forms W-2 sent to employees but returned as undeliverable, must be retained for at least four years after the due date of the tax (or the date the tax is actually paid, if later) for the return period to which the records relate. If you can electronically reproduce the undeliverable Forms W-2, you may destroy the originals.

If an employer files a claim for refund, credit, or abatement of withheld income and employment taxes, records related to the claim must be retained for at least four years after the filing date of the claim.

Employers with a health insurance, cafeteria, educational assistance, adoption assistance, or dependent care assistance plan providing benefits that are excluded from income must also keep whatever records are needed to determine whether the plan meets the requirements for excluding the benefit amounts from income.

Employers must also keep records substantiating any information returns and employer statements to employees regarding tip allocations for at least three years after the due date of the return or statement to which they relate.

Affordable Care Act Information

In *IRS Tax Tip 2015-74*, the IRS explains that the following ACA Forms are considered information returns and that issuers should retain copies of the returns or have the ability to reconstruct the data for at least three years from the reporting due date:

- Form 1094-B, *Transmittal of Health Coverage Information Returns*;
- Form 1095-B, *Health Coverage*;
- Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns*; and
- Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage*.

Unemployment Tax

The Federal Unemployment Tax Act (FUTA) also requires that employers retain records pertaining to compensation earned and unemployment contributions made. Such records must be retained for four years after the due date of the Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, or the date the required FUTA tax was paid, whichever is later. Employers must retain records substantiating:

- The total amount of employee compensation paid during the calendar year;
- The amount of compensation subject to FUTA tax;
- State unemployment contributions made, with separate totals for amounts paid by the employer and amounts withheld from employees' wages (currently, Alaska, New Jersey, and Pennsylvania require employee contributions);
- All information shown on Form 940 (with Schedule A and/or R as applicable); and
- If applicable, the reason why total compensation and the taxable amounts are different.

Department of Labor, State Requirements

Record retention requirements are also set by the federal Department of Labor (DOL) and state wage-hour and unemployment insurance agencies. You can read the DOL's rules by visiting their site [here](#). Links to state agencies can be found by visiting APA's site [here](#). APA

Here's a free no-fee, retirement savings option

The U.S. Department of the Treasury is offering **myRA[®]**, a new, starter retirement savings option. It's safe (with no risk of loss), affordable (no costs or fees) and it is designed to make saving easy for people who need it most – especially workers who don't have access to a retirement savings plan at their job or lack other savings options. New this year, taxpayers can direct deposit all or a portion of their federal tax refund into a myRA[®] account once they enroll. Go to <https://myra.gov> for more details. IRS

IRS payment options are available for many

Paying your taxes on time and in full is best. Doing so eliminates costly penalty and interest charges.

You can explore options for paying your taxes on the IRS website at IRS.gov/payments.

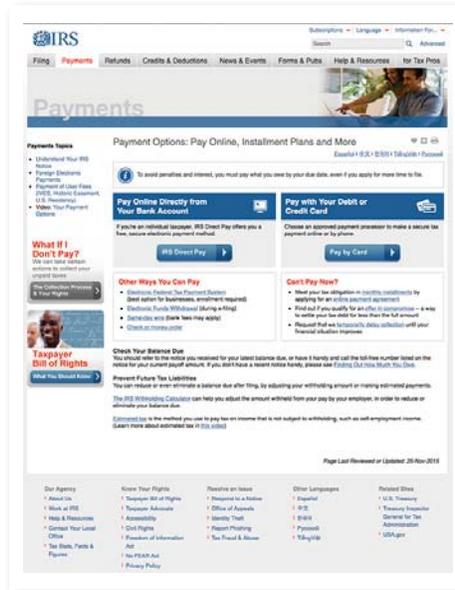
For individuals, including sole-proprietors, IRS Direct Pay is an easy, secure and free way to pay your income taxes through an electronic debit from your bank account. Individuals can make estimated tax payments, schedule a payment with their return or pay with their extension of time to file. To see all the types of payments you can make and to use the service visit Direct Pay on our website.

For employers, the Electronic Federal Tax Payment System is required for making payroll tax deposits. EFTPS can also be used to pay other business taxes and to monitor your payroll tax deposits if you use a payroll service. Once enrolled in EFTPS, it is the convenient and secure way to pay taxes online or by phone. Individuals can also enroll in and use EFTPS. To see all that EFTPS has to offer, visit EFTPS.

Both Direct Pay and EFTPS also allow users to check on the status of payments, modify or cancel payments and see their payment history.

Individuals and businesses that cannot pay on time may be able to set up an IRS payment plan. If you qualify, you can set up the payment plan online in the time it takes to fill out a written application and put it in the mail. And with the online application, you get immediate notification of approval, no waiting for the IRS to get back to you. To see if you qualify and what you will need to apply visit the Online Payment Agreement application at IRS.gov.

Before you decide a payment plan is right for you, you should know that a late payment penalty and interest apply to overdue federal taxes. And the longer it takes you to pay off what you owe, the larger the penalty and interest charges will be. For many, borrowing or paying



by credit card is less expensive than an IRS payment plan. If borrowing is not an option, paying as much as possible with your tax return and paying off the balance quickly will keep penalties and interest to a minimum.

If you decide a payment plan is the way to go, the IRS encourages you to make your payments by direct debit from your bank account. With direct debit, your payments are automatic until the balance is paid: No writing and mailing a check every month. In addition, there is a lower setup fee and less chance of missed or late payments resulting in more penalty and interest charges.

Short-term payment plans of 120-days or less are also an option. There is no setup fee for short-term plans and remember, the faster you pay the less you pay.

If you have explored all your options and don't think you can pay the full amount you owe, an Offer in

Compromise may be possible. An Offer in Compromise is an agreement between you and the IRS to settle your tax debt for less than the full amount owed. Not everyone qualifies for an offer. To see if you qualify and get an estimate of how much the IRS will ask you to pay to settle your tax debt, use our online Offer in Compromise Pre-Qualifier tool.

Finally, if you are struggling financially the IRS may be able to delay the collection process temporarily. Keep in mind, this does not mean your tax debt goes away. Penalty and interest charges continue to grow and the IRS will review your financial situation periodically to see if you can pay. We may also file a Notice of Federal Tax Lien to protect the government's interest in your assets. To request a temporary delay of the collection process, contact the IRS at 1-800-829-1040 or call the phone number on your bill or notice.

Complete information for individual and business taxpayers filing or paying late is available on our website at IRS collection procedures. Information about your rights as a taxpayer is also available, see Taxpayer Bill of Rights. **IRS**

IRS news is just a click away

Get IRS news in your inbox by subscribing to free e-newsletters including:

- **e-News for Payroll Professionals** for information about federal payroll reporting such as legislative changes, news releases, special announcements and employment tax procedures.
- **e-News for Small Businesses** for information of interest to small business owners and self-employed individuals such as important tax dates, reminders and tips, news releases and special announcements. **IRS**

Your employees can make a payment to apply for an extension

Your employees can apply for an automatic extension of time to file by making an electronic payment by April 18. There's no need to file a paper or electronic Form 4868. An extension of time to file is not an extension to pay. Taxes are still due by the original due date.

IRS offers several electronic payment options for you and your employees. You can pay online, by

phone or from your mobile device. Go to IRS.gov/Payments for the payment options, telephone numbers, and easy secure ways to pay your taxes.

Accessing our mobile-friendly payment options like IRS Direct Pay, a free and secure way to make a payment directly from your bank account is easy. You can also make a credit or debit card payment using one of our approved payment pro-

cessor for a fee. You can also download IRS2Go for free from Google Play, the Apple App Store or Amazon for free.

All of the electronic payment options are quick, easy, and secure and can be used by individual taxpayers to apply for an automatic extension of time to file. **IRS**

IRS unveils revamped Tax Calendar YouTube videos

The IRS Tax Calendar [YouTube video](#) is one of the newer approaches businesses can use to learn about different methods to view the calendar. The one-minute updated video explains the functions of the IRS Tax Calendar and shows how to access the calendar on [IRS.gov](#).

Users can access the electronic calendar in either [English](#) or [Spanish](#) via a computer, smartphone or tablet.

Other tax calendar options include:

RSS feed

Subscribers receive an email notification one to two weeks in advance of form and payment due dates by subscribing to the [RSS feed](#) ([Spanish](#)).

Calendar

Business owners can customize the tax calendar and have deposit dates instantly available.

Users can view all events or filter them by monthly depositor, semiweekly depositor, excise or general event types.

Desktop Calendar Tool

The IRS CalendarConnector also provides access to tax calendar events right from the desktop, even when offline. The desktop tool automatically updates new events.

A new version of the IRS CalendarConnector is available. If a business owner has the original version installed on a home computer, the user may wish to uninstall it, as IRS CalendarConnector 2 has a few new features:

- The IRS separated employer events into Monthly Depositor and Semiweekly Depositor categories. Users can use checkboxes to select as many event categories as they would like to display:
 - General
 - Monthly Depositor
 - Semiweekly Depositor
 - Excise



Users can easily access any of the calendar options from Publication 1518A, Tax Calendar Options for Businesses and Self-Employed, in [English](#) or [Spanish](#) or the [IRS Tax Calendar for Businesses and Self-Employed](#) page on [IRS.gov](#).

Users can access the IRS Tax Calendar YouTube video in [English](#), [Spanish](#) or [American Sign Language](#). [APA](#)

- When users minimize IRS CalendarConnector 2, it positions itself in the Windows System Tray or in the Mac Dock, so that it's readily accessible and doesn't consume screen space unless it's open.

Subscribe to or download into other calendar programs

Users have the option to subscribe to the IRS CalendarConnector using Outlook 2007, Outlook 2010 or Mac iCal. Outlook 2003 doesn't have the ability to subscribe, but users can download the tax events from the calendar.

- **Subscribing** adds Web calendar data to the user's calendar program. If they have an iPhone or iPad, they can subscribe through Mac iCal and have the information wherever they go.
- **Subscribing** allows the Web calendar data to update automatically with any IRS changes, but they aren't able to make manual changes to it.
- **Downloading** lets business owners add a one-time "snapshot" of the calendar events to their calendar program (Outlook for example).
- **Downloading** allows them to edit this imported calendar data in Outlook, but will not automatically refresh when the IRS updates data.

Users can view the [Instructions to Subscribe or Download the Tax Calendar](#) ([Spanish](#)) to learn more.

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Reporter

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Reporter

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Summer 2016

A Newsletter for Employees

IRS alerts payroll and HR professionals to phishing scheme involving W-2s

Payroll and human resources professionals should beware of a phishing email scheme that claims to be from company executives and requests personal information on employees.

It's critical to recognize this scam and not fall for it. Cybercriminals who obtain this employee data could commit identity theft crimes including tax refund fraud, the Internal Revenue Service warns.

This phishing variation is known as a "spoofing" email. It will contain, for example, the actual name of the company chief executive officer. In this specific scam, the "CEO" sends an email to a company payroll office employee and requests a list of employees and information including SSNs.

The following are some of the details contained in the e-mails:

- Kindly send me the individual 2015 W-2 (PDF) and earnings summary of all W-2 of our company staff for a quick review.
- Can you send me the updated list of employees with full details (Name, Social Security Number, Date of Birth, Home Address, Salary).
- I want you to send me the list of W-2 copy of employees wage and tax statement for 2015, I need them in PDF file type, you can send it as an attachment. Kindly prepare the lists and email them to me asap.



This scheme already has claimed several victims. Payroll and human resources offices have mistakenly emailed payroll data to cybercriminals posing as company executives. These scam artists obtained Forms W-2, which contain Social Security numbers and other personally identifiable information.

The IRS also recently renewed a wider [consumer alert](#) for e-mail schemes after seeing an approximate 400 percent surge in phishing and malware incidents so far this tax season and other reports of scams targeting others in a wider tax community. **IRS**

What's new for filing 2016 Forms W-2 and W-3 series

New due date for filing with SSA. The due date for filing 2016 Forms W-2, W-2AS, W-2CM, W-2GU, W-2VI, W-3 and W-3SS with the SSA is now January 31, 2017, whether you file using paper forms or electronically.

Extensions of time to file. Extensions of time to file Form W-2 with the SSA are no longer automatic.

For filings due on or after January 1, 2017, you may request one 30-day extension to file Form W-2 by submitting a complete application on Form 8809, *Application for Extension of Time to File Information Returns*, including a detailed explanation of why you need additional time and signed under penalties of perjury.

The IRS will only grant the extension in extraordinary circumstances or catastrophe. See Extension to file for more information. This does not affect extensions of time to furnish Forms W-2 to employees. See *Extension of time to furnish Forms W-2 to employees* in the 2016 General Instructions for Forms W-2 and W-3, for more information. Form 8809 is available at IRS.gov.

Penalties increased. Higher penalties apply for:

- Failure to file correct Forms W-2 by the due date,
- Intentional disregard of filing requirements,
- Failure to furnish Forms W-2, and
- Intentional disregard of payee statement requirements.

The higher penalty amounts apply to returns required to be filed after December 31, 2016 and are indexed for inflation. See *Penalties* in the 2016 General Instructions for Forms W-2 and W-3, for more information.

New penalty safe harbor. Forms W-2 with incorrect dollar amounts may fall under a new safe harbor for certain de minimis errors. See *Penalties* in the 2016 General Instructions for Forms W-2 and W-3, for more information.

Same-sex marriage. For federal tax purposes, marriages of couples of the same sex are treated the same as marriages of couples of the opposite sex. The term "spouse" includes an individual married to a person of the same sex.

However, individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that is not considered a marriage under state law are not considered married for federal tax purposes. For more information, see Revenue Ruling 2013-17, 2013-38 I.R.B. 201, available at https://www.irs.gov/irb/2013-38_IRB/ar07.html.

Notice 2013-61 provides special administrative procedures for employers to make claims for refunds or adjustments of overpayments of social security and Medicare taxes with respect to certain same-sex spouse benefits before expiration of the period of limitations. Notice 2013-61, 2013-44 I.R.B. 432 is available at https://www.irs.gov/irb/2013-44_IRB/ar10.html.

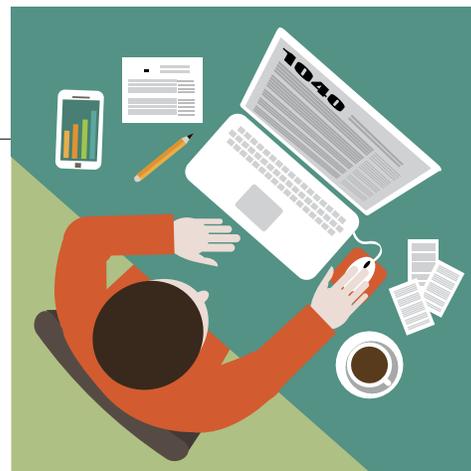
Third-party sick pay recap reporting. See Form 8922, Third-Party Sick Pay Recap, for more information about the new procedures for third-party sick pay recap reporting. Form 8922 is available on IRS.gov. 

IRS focuses on improving the taxpayer experience

As the weather gets hotter, there's no need for your temperature to rise trying to comply with your federal tax responsibilities. The IRS wants to make processes as easy as possible and has several **initiatives** aimed at improving the taxpayer experience by reducing taxpayer burden. But what would help you? The IRS would like to hear your ideas on how to improve the taxpayer experience through burden reduction.

If you have ideas about how to simplify reporting requirements, streamline IRS procedures, shorten forms or more, share them today!

Use Form 13285A, Reducing Tax Burden on America's Taxpayers, to submit your ideas. Visit the Taxpayer Burden Reduction website for more information. 



Do you owe taxes?

The IRS offers several payment options for you to pay immediately or to make arrangements to pay in installments. If you receive a bill from us, don't ignore it. A delay may cost you more in the long run. The longer you wait, the more interest and penalties you may have to pay. It's simple to make payments using IRS electronic payment options.

You can pay your tax bills directly from your checking or savings account free with IRS **Direct Pay**. You receive instant confirmation that you made your payment. With Direct Pay, you can schedule your payment up to 30 days in advance. You can change or cancel your payment two business days before the scheduled payment date.

You can pay your taxes by **debit or credit card** online, by phone or with your mobile device. Your payment will be processed by a payment processor. The IRS does not charge a fee but convenience fees apply and vary by processor.

If you prefer to pay with your mobile device, use the **IRS2Go** app to pay with either Direct Pay or debit or credit card. IRS2Go is the official mobile app of the IRS. You can download IRS2Go from Google Play, the Apple App Store or Amazon.

If you're unable to pay your tax debt immediately, you may be able to make monthly payments. Before applying for any payment agreement, you must file all required tax returns. You can apply for an installment agreement with the **Online**

Payment Agreement tool.

Who's eligible to apply for a monthly installment agreement online?

- Individuals who owe \$50,000 or less in combined tax, penalties and interest and have filed all required returns
- Businesses that owe \$25,000 or less in combined tax, penalties and interest for the current year or last year's liabilities and have filed all required returns

If you owe taxes, pay as much as you can as soon as possible to minimize interest and penalties. Visit IRS.gov/payments for all payment options. 

Use Voluntary Correction Program submission kit to correct information

This kit is for plan sponsors that maintain a pre-approved defined contribution plan but failed to adopt a new plan document by April 30, 2016 and are correcting the failure by adopting a pre-approved defined contribution retirement plan that reflects the provisions of the Pension Protection Act (PPA).

Note: Refer to a separate IRS submission kit if the plan sponsor also failed to adopt an updated pre-approved plan document by April 30, 2010 designed to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). This kit provides instructions in terms of completing of completing specific Form 14568-B items and the additional documents needed for a complete VCP submission.

IRS approval of a submission filed in accordance with this kit is not enough to restore the tax-favored status of your retirement plan if there were other failures in addition to the failure to timely adopt an PPA restated pre-approved plan document.

Other failures could include failing to amend the plan for major legislation before PPA, or failing to timely adopt required amendments for subsequent tax law changes or failing to operate the plan in accordance with its written terms. You'll need to take additional steps to correct any other failures. The Correcting Plan Errors page has resources to help you correct other errors with your plan.

Background

Sponsors of pre-approved defined contribution retirement plans were generally required to sign new plan documents, generally on or before April 30, 2016, that incorporated changes required by the Pension Protection Act (PPA). Defined contribution plans include profit-sharing plans, 401(k) plans, and money purchase pension plans. Pre-approved plans are plan documents that have been approved by the IRS and are sold to plan sponsors through law firms, banks, brokers, other financial institutions or plan administrators. The IRS issued favorable opinion letters approving these plans to the authors of these pre-approved plan documents in March of 2014 (or shortly after March 31, 2014).

Some plan sponsors have a later adoption deadline. If a plan sponsor wishes to convert an existing individually designed plan into a current defined contribution pre-approved plan they have until April 30, 2017 to adopt the pre-approved defined contribution plan.

If you, the plan sponsor, did not sign a restated defined contribution plan document as required on or before the April 30, 2016 deadline, your retirement plan is no longer entitled to tax-favored treatment. There is the possibility that the loss of tax-favored treatment may reduce your deduction for contributions paid to the plan, and would not allow your employees' to accumu-

late retirement savings, as the plan is no longer eligible for tax-favored treatment. While not required by the IRS or the federal tax code, the financial institution holding the plan assets may refuse to make distributions. If they did make distributions, such distributions would be taxable and would not be eligible for tax-free rollover.

You can restore the tax-favored status of your plan by adopting a restated PPA pre-approved plan document and filing a submission for a Voluntary Correction Program (VCP) compliance statement with the IRS. If your submission is approved, the IRS will treat the plan as entitled to tax-favored status. Your deduction is protected, and plan participants continue to build up their retirement savings on a tax-deferred basis. A copy of the VCP compliance statement, signed on behalf of the IRS will be returned to you. Keep it with the signed plan document.

Before making a VCP submission to the IRS, plan sponsors may want to check with the law firms, banks, brokers, other financial institutions or plan administrators that created the pre-approved defined contribution plan to see if they will be making a special request for a closing agreement on behalf of all adopters who missed the deadline. Refer to this other [Article, Correct the Failure to Adopt the Pre-approved Plan by the Applicable Deadline](#) for additional details. If they are then no individual VCP submission is required. If they are not then you, the plan sponsor is responsible for making an individual VCP submission to the IRS.

Learn what [items need to be submitted](#). 

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Aiding employees facing hardships – options and tax ramifications

Many employers have encountered situations where an employee, who is dealing with an emergency, has exhausted available leave but still needs a paycheck. One way an employer may help an affected employee is through a leave-sharing plan. Employers may establish plans for employees dealing with medical emergencies or a “major disaster.” To properly administer these plans, employers must be aware of the tax implications for employees who donate their leave to the plans and for those who use the donated leave.

Similarly, employers that make loans to their employees must also be careful of the tax treatment of those loans. For employers with employees who are called to active military duty, there are special rules where the employer makes differential wage payments.

Medical emergencies

Under an employer’s leave-sharing plan, employees can donate a certain number of paid leave days, which are then “deposited” in a leave bank. Employees who participate in the plan and have medical emergencies can use paid leave from the bank when their own paid leave has been exhausted. Employers can restrict the number of days deposited or used for medical emergencies.

Compensation paid to employees using paid days from the leave bank is wages subject to federal income tax withholding and social security, Medicare, and FUTA taxes. Employees who donate paid leave days and then do not use any of the banked days do not receive any wages related to the amount of leave they donated, but they also cannot deduct the compensation donated from their income [Rev. Rul. 90-29, 1990-1 CB 11].

In the event of a medical emergency, donated amounts received are not taxable wages to the donor employee but instead are considered taxable wages to the recipient employee unless some other provision of the Internal Revenue Code specifies otherwise. Donating employees also may not deduct the value of the donated leave from their income.

Major disasters

In addition to a leave-sharing program for medical emergencies, employers may also institute a plan for employees who are affected by a major disaster. IRS Notice 2006-59 [2006-28 IRB 60] provides for a similar treatment of donated leave in the event of a federally declared disaster. Disasters as declared by state and local authorities do not qualify for this exception.

Under a major disaster leave-sharing plan, both the donor and the recipient must be current employees. Donors do not have wages or compensation with respect to the deposited leave, provided that the plan treats payments made by the employer to the employees using the leave as wages for purposes of federal income tax withholding and social security, Medicare, and FUTA taxes. The donor cannot claim an expense, charitable contribution, or loss deduction on account of the deposit of the leave or its use by the recipient.

IRS Notice 2006-59 also provides the following specific requirements that a valid major disaster leave-sharing plan must include:

1. The plan allows a leave donor to deposit accrued leave in an employer-sponsored leave bank for use by other employees who have been adversely affected by a major disaster. For purposes of the plan, an employee is considered to be adversely affected by a major disaster if the disaster has caused severe hardship to the employee or a family member of the employee that requires the employee to be absent from work.

2. The plan does not allow a leave donor to deposit leave for transfer to a specific leave recipient.

3. The amount of leave that may be donated by a leave donor in any year generally does not exceed the maximum amount of leave that an employee normally accrues during the year.

4. A leave recipient may receive paid leave (at his or her normal rate of compensation) from leave deposited in the leave bank. Each leave recipient must use this leave for purposes related to the major disaster.

5. The plan adopts a reasonable limit, based on the severity of the disaster, on the period of time after the major disaster occurs during which a leave donor may deposit the leave in the leave bank, and a leave recipient must use the leave received from the leave bank.

6. A leave recipient may not convert leave received under the plan into cash in lieu of using the leave. However, a leave recipient may use leave received under the plan to eliminate a negative leave balance that arose from leave that was advanced to the leave recipient because of the effects of the major disaster. A leave recipient also may substitute leave received under the plan for leave without pay used because of the major disaster.

7. The employer must make a reasonable determination, based on need, as to how much leave each approved leave recipient may receive under the leave-sharing plan.

8. Leave deposited on account of one major disaster may be used only for employees affected by that major disaster. Except for an amount so small as to make accounting for it unreasonable or administratively impracticable, any leave deposited under a major disaster leave-sharing plan that is not used by leave recipients by the end of the employer-specified time limit must be returned within a reasonable period of time to the leave donors (or, at the employer’s option, to those leave donors who are still employed by the employer) so that the donor will be able to use the leave. The amount of leave returned to each leave donor must be in the same proportion as the amount of leave donated by the leave donor bears to the total amount of leave donated on account of that major disaster.

Loans to employees

In addition to a leave-sharing program, an employer may also decide to make a loan to an employee. If the loan is made with an interest rate below the applicable federal interest rate, it is a below-market, compensation-related loan. The amount representing the difference between the interest charged to the employee and the applicable federal interest rate must be included in the income of the employee on any day in which the

combined amount of all outstanding loans between the employer and the employee is more than \$10,000.

The taxable amount is not subject to federal income tax withholding, but must be reported on the employee’s Form W-2. The taxable amount is subject to social security, Medicare, and FUTA taxes. If the employer forgives the debt, or for any other reason the employee is not expected to repay the loan, the entire balance of the loan becomes income subject to federal income tax withholding and social security, Medicare, and FUTA taxes in the year the debt is forgiven. Loans made to employees in connection with a job-related relocation to facilitate the purchase of a new residence (e.g., mortgage or bridge loans) may be tax-exempt if the move qualifies for the moving expense deduction.

Military differential pay

When an employee is on active military duty, an employer may pay the employee the difference between the pay received from the military and the pay that the employee would have received at the civilian job.

These payments are known as differential wage payments and receive special tax treatment. Under the Heroes Earnings Assistance and Relief Tax Act (Pub. L. 110-245, IRC §3401(h)), “differential wage payments” made to employees are wages for purposes of federal income tax withholding. The payments are taxed as supplemental wages because they are not payments for services for the civilian employer in the current payroll period. A differential wage payment is defined as any payment that:

- Is made by an employer to an employee for any period during which the employee is performing service in the uniformed services while on active duty for more than 30 days.
- Represents all or a portion of the wages that the employee would have received from the employer if the employee were performing services for the employer.

However, this change in the law does not apply to the social security, Medicare, and FUTA tax treatment of amounts paid to an employee who is serving in the military. For purposes of these taxes, compensation is governed by the following rules:

- If the supplemental military pay is provided while the employee is on temporary assignment with the state National Guard or the Armed Forces Reserve, it is wages subject to social security, Medicare, and FUTA taxes.
- If the supplemental military pay is provided while the employee is on active service with the U.S. Armed Forces or on an indefinite assignment with the state National Guard, the IRS treats the employment relationship as broken and the compensation is not subject to social security, Medicare, or FUTA taxes. **APA**

Stay in compliance with APA's Payroll Tax Forum

Payroll is one of the most regulated aspects of any business. The cost of noncompliance is steep. By attending an American Payroll Association (APA) Payroll Tax Forum, a one-day course offered in 18 cities nationwide, June 13 - 24, 2016, you can avoid penalties by learning about the latest payroll-related changes from Congress and federal agencies such as the IRS, SSA, DOL, and the Department of Homeland Security. If you are unable to attend a one-day

seminar, APA also offers a four-part live webinar (June 22 to July 1), or as a webinar on demand, which will be available in July.

Topics include: the health insurance data reporting required by the Affordable Care Act, the taxation and reporting of executive employee compensation, preparing for the increase to the white collar exemption minimum salary requirement, and planning for the accelerated W-2 and 1099 filing due dates.

The class also includes a review of recent legislative and regulatory changes, a review of the annually adjusted wage bases and benefit limits, and a discussion of revisions to IRS forms and publications. Payroll directors and managers, tax and compliance officers, controllers, CFOs, treasurers, and anyone else involved in your organization's payroll should not miss this opportunity. For more information, visit the APA [website](#). **APA**

New Employer Shared Responsibility Provision Estimator tool is now available

The [Taxpayer Advocate Service](#) developed the [Employer Shared Responsibility Provision \(ESRP\) Estimator](#) to help employers understand how the provision works and how it may apply to them.

The provision applies to [applicable large employers \(ALEs\)](#). Generally, this refers to employers that had an *average of at least 50 full-time employees*, including full-time equivalent employees (FTEs), during the preceding calendar year.

If you are an employer, you can use the estimator to determine:

- The number of your full-time employees, including FTEs,
- Whether you might be an ALE, and
- If you are an ALE, an estimate of the *maximum* amount of the potential liability for the employer shared responsibility payment that could apply to you based on the number of full-time employees that you report if you fail to offer coverage to your full-time employees.

Please note that this tool will only provide the above information for tax year 2016. Due to the various [Transition Relief](#) rules applicable in 2015, this tool cannot be used for tax year 2015. For information about

these rules and how to determine the payment for 2015, see the [ESRP Regulations](#).

The estimator will not report a payment estimate to the IRS or interact with your tax return or tax account information. It is intended solely as a guide to help you understand the Employer Shared Responsibility Provision. You will not report or include any ESRP payment with any tax return you may file. Instead, each year based on information from your and your employees' tax returns, the IRS will calculate the potential ESRP payment and contact you to inform you of any potential liability. You will then have an opportunity to respond before any assessment or notice and demand for payment is made.

So try this tool, anytime, to help you determine whether you are considered an ALE and whether you might be liable for a payment. It could help you plan better and possibly avoid a payment later. You can also use it anytime you have employee changes to see if those changes will affect your employer status under the ESRP provisions, so you won't be surprised later.

Another Small Business Health Care Tax Credit (SBHCTC) Estimator tool is designed just for small businesses.

If you're a small business, whether for-profit or non-profit, and you provide health insurance to your employees, you should make sure you are taking full advantage of the [SBHCTC](#) this year and in the future.

Your small business may be eligible for this credit if you:

- Employ fewer than 25 FTE employees for the tax year,
- Pay average wages of less than \$50,000 per FTE (as adjusted for inflation beginning in 2014) per year, and
- Pay at least half of employee health insurance premiums under a qualified health plan offered through a [Small Business Health Options Program \(SHOP\) Marketplace](#) or qualify for an exception to this requirement. However, the [exceptions](#) are extremely limited.

To determine if you are eligible to take advantage of the credit, use the Taxpayer Advocate Service's [Small Business Health Care Tax Credit Estimator](#). This tool will walk you through the required calculations to help you determine if you may claim the credit and get an estimate of the amount of credit allowed.

Additional ACA resources for large and small business can be found on [IRS.gov](#) using the search word "ACA". **IRS**

Increasing electronic payments to child support agencies benefits families and employers

E-mails to employers, presentations at conferences, and employer outreach are all part of the successful efforts employed by state child support agencies and the federal Office of Child Support Enforcement to promote electronic payments, or Electronic Funds Transfer (EFT), for child support. The American Payroll Association has also partnered with the child support community by including a session with information about e-payments at its annual conferences attended by more than 2,000 payroll professionals.

Annually, states provide statistics on the percent of collections that employers, Unemployment Insurance

(UI) agencies, other states, and direct payers remit electronically. In 2004, the average was 33.1 percent, and in 2015 the percentage has almost doubled to 64.7 percent. The national EFT percentage increases yearly and increased by 4.5 percent from 2014 to 2015. [Sixteen states](#) passed legislation or regulations requiring employers to remit their child support payments electronically, and these states report a higher percentage of collections through EFT. When employers remit child support payments electronically, it saves time and money, increases accuracy, and most importantly the child support gets to the families faster.

Increasing the number of electronic child support payments helps the child support community's effort to streamline collections and get money to families more quickly. For more information about converting to electronic payments for child support, [contact your state child support enforcement agency](#) or [visit Electronic Payments](#).

If you have questions, please contact Robyn Large at robyn.large@acf.hhs.gov. **HHS**

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A Newsletter for Employers

Employer “hit” rate on OCSE’s website . . . Did you know?

Did you know that the [federal Office of Child Support Enforcement’s \(OCSE\) website](#) is a valuable resource for employers? OCSE recently updated the website to be more user-friendly especially when using a mobile device or tablet.

Did you know that the [Employer](#) page has relevant and current information for employers that have employees with a child support order?

The [State Contacts & Requirements](#) page averages more than 9,000 viewings per month and provides contact and program information for each state and territory about:

- [New Hire Reporting](#),
- [Income Withholding](#),
- [Lump Sums](#),
- [Medical Support](#), and
- [State Disbursement Units](#)

The [Electronic & Online Services](#) page provides information about:

- [e-IWO](#) - Learn more about automating the Income Withholding for Support (IWO) and making the process convenient, accurate, and fast with electronic income withholding orders (e-IWO).
- [eTerm](#) - With electronic termination (eTerm), you can report employee terminations online. Once registered, you can upload files or enter information on the eTerm application.



- [Bonus/Lump Sum Reporting](#) - Employee bonuses and other lump sum payments are income that can be garnished to collect child support. Online Lump Sum Reporting is an easy way for you to notify nearly all states at once about upcoming payments.
- [Multistate Employer Registry](#) - Employers with employees in more than one state can transmit all new hire reports to a single state where they have employees, provided they notify the Secretary of Health and Human Services by registering on the Multistate Employer Registry.

There is a wealth of additional information for employers on these topics and more. If you haven't checked us out lately, you are missing valuable information.

Questions? Contact the [Employer Services](#) Team. **HHS**

Federal agencies benefit from receiving child support orders electronically

Private sector employers are not the only ones reducing costs and finding electronic methods to work more efficiently. Receiving electronic income withholding orders (e-IWOs) is an efficient and cost-effective way to electronically exchange IWO information between child support agencies and employers.

Working with public and private sector employers and child support agencies, the federal Office of Child Support Enforcement (OCSE) developed and implemented the automated and centralized e-IWO process that has significantly reduced time-consuming paperwork associated with handling and processing child support orders. e-IWO has proven to:

- save employers time and staff resources;
- speed up communication with child support agencies; and
- ultimately get child support to families faster.

All the above benefits with No Cost To Employers!

Currently 51 of the 54 states and territories use OCSE's e-IWO process which means that if your agency opted to join e-IWO, you would interface with just one entity—OCSE—and receive and respond orders from 51 child support agencies all electronically. South Carolina, the Virgin Islands, and Guam are the only state and territories not currently sending orders electronically. More information about e-IWO is available on OCSE's [website](#).

Several federal agencies currently use e-IWO to receive and acknowledge income withholding orders from child support agencies. The table below gives the count of e-IWOs received by some federal agencies in the last 60 days.

AGENCY	Number of e-IWOs
Architect of the Capitol	15
Defense Finance and Accounting Service (DFAS)	18,275
Federal Reserve Bank of Richmond	50
Internal Revenue Service	104
Social Security Administration	55,671

As you can see from the table above, agencies of different sizes use e-IWO. Here's what DFAS says about it:

"e-IWO has been awesome! About 60% of our work is child support related. We receive the batch files daily. The electronic orders are processed into our imaging/workflow system automatically so the order is in the member/employee file within 48 hours of being sent from the child support agency without manual intervention.

With e-IWO, there are no postal delivery delays, and the mail room does not have to open envelopes or "prep" the document for imaging into our document/workflow system. Once again, e-IWO eliminates a manual process. e-IWO has also decreased the number of duplicate orders we receive.

In several instances, we automated the termination process. About 40% of the termination orders we receive are automatically processed within 72 hours of being sent from the child support agency."

If your agency wants to reduce costs, save staff time, and improve efficiency, use e-IWO! For more information or to get in touch with staff in other federal agencies using e-IWO, contact Bill Stuart, william.stuart@acf.hhs.gov or 518-399-9241. 

APA Seminar/Webinar: Year-End Compliance and New Rules for 2017

The American Payroll Association's "Preparing for Year-End and 2017" provides updates on the latest changes in legislation and regulations that affect the close of 2016 and the first payroll of 2017, including:

- How to prepare for the accelerated Form W-2 filing deadline,
- How employers will comply with the Affordable Care Act's health insurance reporting requirements, and
- How fringe benefit taxation will impact Forms W-2 and 941 reporting.

The one-day seminars are available in 50 cities nationwide. If you cannot get out of the office, all four segments of the class are offered as webinars online, both live and on demand. For more information about this time-saving and educational program, visit [Preparing for Year-End and 2017](#) and register today.



The APA also has specialized webinars for payroll professionals in the government or public sector, those who process Canadian payrolls, and those who are in accounts payable. Visit [Government/Public Sector Year-End and 2017](#), [Canadian Payrolls Preparing for Year-End and 2017](#), or [Accounts Payable/Disbursements Preparing for Year-End and 2017](#) for more information.

There is also a four-segment [Advanced Preparing for Year-End and 2017](#) webinar covering advanced year-end issues, including complex fringe benefit taxation and reporting requirements. 

American Payroll Association's tips for year-end and 2017

This year payroll professionals will face a year-end that is very different from previous years. Employers must be prepared for two new reporting requirements. First, the filing deadline for Form W-2 has been accelerated to January 31. Second, employers that took advantage of various forms of transition relief for Affordable Care Act (ACA) health care information reporting or that may have encountered difficulties with their reporting procedures for the forms filed in 2016 need to prepare to accurately and timely report in 2017.

While there are new challenges for this year-end, several provisions in the Consolidated Appropriations Act, 2016, may help alleviate some of those difficulties. Unlike previous years, payroll professionals will not have to deal with retroactive changes to qualified mass transit benefits because the parity provision equalizing the excludable benefit for parking and transit benefits was made permanent. Similarly, the Work Opportunity Tax Credit was expanded and extended through 2019, and the wage credit for military differential pay was expanded and extended permanently.

To help you prepare for a successful year-end and 2017, the American Payroll Association offers these tips to help you complete your year-end processing.

Communication Is Key

Communication with employees is a key element to a successful year-end process. Errors and simple misunderstandings may be avoided through effective communication with your employees. Because ACA reporting is still relatively new, employers should be prepared to handle questions concerning health care reporting. Employers should be prepared to explain why employees may have received a request for the social security numbers (SSNs) of their spouse and/or children. Employers should also be prepared to explain why the employee has received a Form 1095-C and/or Form 1095-B.

Accelerated Form W-2 filing deadline. Because the deadline to file Forms W-2 has been accelerated, it is increasingly important to communicate with employees the need to have correct information on their Forms W-2. Previously, an employer might be able to fix an error in a Form W-2 prior to filing it with the Social Security Administration (SSA). For instance, if an employer furnished its Forms W-2 to employees in January, but did not file with SSA until March, errors could be fixed without the need to file a Form W-2c.

SSN requests. Because health insurance providers must report the SSN for each individual they cover, employees may receive a request for the SSN of their spouse or children. Employers should explain that the information will be used in conjunction with required ACA reporting. By not providing the SSN, employees increase the risk of the IRS not being able to verify information on their tax returns, which could result in a penalty notice. For additional information, see the IRS webpage, [Questions and Answers about Reporting Social Security Numbers to Your Health Insurance Company](#).

Forms 1095-C and/or 1095-B. Employees are likely to have questions about the ACA forms. Employers can help educate their employees by explaining that the forms will be used to report health coverage information to the IRS. The forms report what coverage was offered to the employees and which months the employees had insurance coverage. Employees will use this information to complete their individual tax return. Unlike the Form W-2, these forms do not need to be attached to tax returns. Employees should review the form to ensure that the information is correct. Additional information may be found in the Instructions for Recipient section of Form 1095-C and in [Affordable Care Act Tax Provisions Questions and Answers](#) posted to the IRS website.

Standard reminders. In addition to the new communication efforts related to the earlier Form W-2 filing deadline and the ACA reporting, employers should continue to send reminders to their employees concerning year-end procedures and deadlines. The APA suggests these reminders:

- Remind employees to review all information (i.e., name and address) on their paystubs to verify that it is correct. This will help reduce returned Forms W-2.
- Remind employees to review the marital status and number of withholding allowances claimed on Forms W-4, and to make changes if needed (i.e., did the employee get married, including same-sex marriages, get divorced, or need to change the number of dependents).
- Before issuing an original Form W-2, inform employees if the employer intends to charge a fee for a replacement Form W-2.
- Remind employees who anticipate liability for the additional Medicare tax that they may ask the employer to withhold an additional amount of income tax by adjusting their Forms W-4.
- Remind employees claiming "exempt" from withholding to submit a new Form W-4 in time for the processing of paychecks dated after February 15, 2017, if the employee wants to continue to claim "exempt" and is qualified to do so.
- Notify employees who have no income tax withheld that they may be able to claim a refund because of the Earned Income Tax Credit (EITC).
- Remind employees if your health FSA has a grace period for early 2017 claims or a carryover provision for up to \$500 of the contributions made to the FSA in 2016. Also, inform employees if there is a change to the salary reduction limit for health FSA contributions for plan years beginning in 2017.
- Notify employees of SDI tax rate and wage base changes.
- Notify employees of any changes to the contribution limit for 401(k), 403(b), most 457 plans, and the federal government's Thrift Savings Plan. Also, notify employees of any changes to the catch-up contribution limit for employees who are 50 years old or older. **APA**

Steps to facilitate a smooth year-end process

As you plan your year-end process, you can build numerous tasks and deadlines into your schedule to help you complete the process in a timely manner. These tasks include:

In December

Collect benefit and payroll adjustment information and post it to employees' payroll, including relocation assistance, educational assistance, group-term life insurance, third-party sick pay, company cars, off-cycle checks, and void checks.

Schedule any special bonus payrolls for the current year.

Verify that all stop payments, voids, and off-cycle checks have been processed.

Order Forms W-2 and Forms 1099-MISC [here](#) from the IRS for all employees and independent contractors who worked for your company this year. Be sure to order an extra supply of forms to allow for any mistakes. Also, consider preparing, printing, and filing Forms W-2 online at SSA's [Business Services Online](#). Remember that electronic filing is required if the employer has 250 or more Forms W-2 to file.

Verify employees' names and SSNs with SSA's [Social Security Number Verification Service](#).

In December and January

Check to see if Congress has renewed or changed any tax provisions.

Obtain new forms, withholding tables, and publications from IRS.

Review the Social Security wage base (\$118,500 for 2016), deferred compensation limits, and mileage rate.

Notify employees of applicable changes and any actions they must take.

Verify the employer's state unemployment insurance tax rate and taxable wage limit for each state where the employer has workers.

Compute uncollected Social Security and Medicare taxes for retirees and former employees.

Calculate the cost of employer-provided health coverage, if required, and verify it will appear on Form W-2 in Box 12 using code DD.

In January

Reconcile Forms W-2 and W-3 totals against Forms 941 for 2016.

Run a report to verify W-2 information before printing the forms for each employee.

Verify that you have an SSN for each employee.

Review employees' Forms W-2 who have wages higher than the Social Security wage base (\$118,500 for 2016), who have benefits that must be reported in Box 10 or Box 12, or who have statuses that must be checked in Box 13.

Purchase postage for mailing Forms W-2, 1099-MISC, and 1095-C if they are not provided electronically.

If your company offers any pre-tax deductions, prepare a notice for delivery to employees that explains the calculations of the numbers in boxes 1, 3, and 5 on Form W-2.

By January 31

File Forms W-2 (Copy A) and W-3 with the Social Security Administration. This deadline applies to forms filed on paper or electronically.

Deliver or mail Forms W-2 to all 2016 employees.

File Forms 1099-MISC reporting non-employee compensation payments in Box 7 with the IRS, whether or not there are amounts reported in any other box on the form.

Deliver or mail Forms 1099-MISC to recipients. If amounts are only reported in Box 8 or 14, the deadline is extended to February 15, 2017.

File Form 941, Form 943, or Form 944; and Form 940 with the IRS. The normal deadline for filing these is January 31, 2017, however, if all taxes have been deposited when due, the deadline for filing is extended to February 10.

By February 16

For any employee who claimed "exempt" from withholding in 2016, but has not submitted an exempt 2017 Form W-4, begin withholding based on the most recent, valid, non-exempt Form W-4 in the employee's file. If you do not have a Form W-4, withhold based on a marital status of "single" and zero withholding allowances.

By February 28

File paper Forms 1094-C and Forms 1095-C with the IRS. If you file electronically, the deadline for submitting these forms is extended to March 31, 2017.

File paper Forms 1099-MISC with the IRS if no amount is reported in Box 7. If you file electronically, the deadline for submitting these forms is extended to March 31, 2017.

File Form 8922, *Third-Party Sick Pay Recap*, with the IRS. Note: The employer will file Form 8922 if sick pay is reported on Form W-2 under the agent or insurance company's name and EIN. The agent or insurance company will file Form 8922 if sick pay is reported on Form W-2 under the employer's name and EIN. Form 8922 must be filed on paper for tax year 2016.

*Editor's Note: The American Payroll Association's strong partnership with the IRS and SSA allows it to prepare its classes and publications, such as *The Payroll Source*®, with the most accurate and up-to-date information to educate employers. More APA information is available at www.americanpayroll.org. APA*



Department of Labor's overtime update takes effect on December 1

On May 18, 2016, the Department of Labor announced a final rule updating the white collar overtime regulations, which will automatically extend overtime pay protections to over 4 million workers within the first year of implementation. The Department received over 270,000 comments in response to the Notice of Proposed Rulemaking published in July 2015 from a variety of interested stakeholders, which helped to shape the Final Rule.

Generally, the FLSA requires that employees be paid minimum wage and overtime pay, unless an exemption applies. This Final Rule updates the regulations for determining whether white collar salaried employees are exempt from the Fair Labor Standards Act's minimum wage and overtime pay protections. Presently, they are exempt if they are (1) paid on a salary basis, (2) paid no less than the salary level test, and (3) employed in a bona fide executive, administrative, or professional capacity, (as those terms are defined in the Department of Labor's regulations at 29 CFR part 541). This exemption from the FLSA is sometimes referred to as the "white collar" or "EAP" exemption.

The salary threshold set in the rule helps to identify white collar employees who are entitled to overtime pay when they work

long hours. Employees earning under the threshold are entitled to overtime protection, while employees earning more than the threshold may be exempt from overtime protection depending on their job duties. The threshold has been updated only once in the last 40 years. The existing salary level has been severely eroded by inflation and is too low to work with the duties test it was paired with.

To restore the effectiveness of the salary level test, the Department is increasing the standard salary level from \$455 per week (\$23,660 for a full-year worker) to \$913 per week (\$47,476 for a full-year worker). There are no changes to the standard duties test for the "white collar" exemption. For employees with salaries above the salary level, employers will continue to use the same test to determine whether or not an employee's duties entitle him or her to overtime pay. In order to prevent the salary level requirements from again becoming outdated and ineffective, the Department is establishing mechanisms for automatically updating the salary and compensation levels every three years to maintain them at the levels set in this rulemaking. Additionally, the Final Rule amends the salary basis test to allow employers to use nondiscretionary

bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level.

The effective date of the final rule is December 1, 2016. The initial increases to the standard salary level (from \$455 to \$913 per week) and highly compensated employee (HCE) total annual compensation requirement (from \$100,000 to \$134,004 per year) will be effective on that date. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020.

This long-awaited update will provide a meaningful boost to workers and help ensure workers are compensated for their work. The final rule will strengthen overtime protections for salaried workers already entitled to overtime and provide greater clarity for workers and employers. The rule will also prevent a future erosion of overtime protections and ensure greater predictability.

For more information, as well as detailed guidance for employers, small business owners, non-profit organizations, and relevant fact sheets, [please visit the Wage and Hour Division's website](#). If you have additional questions, please contact your nearest Wage and Hour Division office by calling 1-866-4USWAGE. 

Clarifications to instructions for lines 4l of Schedules H and I (Form 5500) and line 10f of Form 5500-SF

Lines 4l of Schedules H and I of the Form 5500, Annual Return/Report of Employee Benefit Plan, and line 10f of Form 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan, ask "*Has the plan failed to provide any benefit when due under the plan?*" This question was added to Schedules H and I of the Form 5500 and Form 5500-SF as part of the forms revisions effective for the 2009 plan year. The instructions did not include examples of what constituted a reportable failure to provide any benefit when due under the plan. The IRS clarified the instructions in connection with the 2015 Form 5500 and Form 5500-SF to explain that a reportable failure included unpaid minimum required distributions to 5% owners who have attained 70½, and non-5% owners who have attained 70½ and have retired or separated from ser-

vice. Based on comments received in response to a Paperwork Reduction Act notice regarding the 2016 Form 5500 and Form 5500-SF (see [81 FR 18887](#)), the IRS announced that, in the absence of other guidance, filers do not need to report on Lines 4l of the Schedule H and I to the Form 5500 and 10f of the Form 5500-SF unpaid required minimum distribution (RMD) amounts for participants who have retired or separated from service, or their beneficiaries, who cannot be located after reasonable efforts or where the plan is in the process of engaging in such reasonable efforts at the end of the plan year reporting period.

The above-guidance is limited to completing the identified annual return/report line items. Plan administrators and employers should review their plan documents for written procedures on locating

missing participants. Also, although the Department of Labor's Field Assistance Bulletin 2014-01 is specifically applicable to **terminated** defined contribution plans, employers and plan administrators of ongoing plans may want to consider periodically using one or more of the search methods described in the FAB in connection with making reasonable efforts to locate RMD-eligible missing participants.

Additional resources

- [Form 5500 Corner](#)
- [Forms 5500, 5500-SF and 5558 filing tips](#) (video 1.40 min). 

One-participant plan sponsors – Avoid orphan plans

Employers that sponsor one-participant plans should take necessary steps to prevent a qualified retirement plan from becoming an orphan plan - a plan that no longer has a plan sponsor.

One of the most common reasons why a retirement plan becomes an orphan plan is because the plan sponsor no longer exists. For example, the individual employer/plan sponsor:

- retires
- passes away (and there's no successor appointed) or
- abandons the plan before properly terminating it.

An orphan plan may fail to meet the Internal Revenue Code qualification requirements and lose its tax-favored status. If a plan is no longer sponsored by an employer, it:

- ceases to be a qualified plan
- may fall out of compliance with other Code requirements

When the sole proprietor with a one-participant plan retires, the assets must be distributed and the plan must be terminated. A distribution involves either rolling over the assets into an IRA or taking a taxable distribution.

Preventing orphan plans

- **Terminate the plan** – review and take all applicable steps to terminate the plan if you are a plan sponsor and you:
 - a. sell your business
 - b. close your business
 - c. retire
 - d. file bankruptcy for your business that results in its closing
- **Name someone** to effect plan termination if you are unable to or unavailable.

Additional resources

- [Fixing Common Plan Mistakes – How to Terminate an Orphan Plan](#)
- [Retirement Topics - Termination of Plan](#)
- [Retirement Plans FAQs regarding Plan Terminations](#) 

Help others in your community with free tax preparation

As the IRS prepares for the 2017 filing season, you can also plan to give back to your community by providing free tax return preparation service for taxpayers who qualify at Volunteer Income Tax Assistance and Tax Counseling for the Elderly sites.

Volunteering with VITA and TCE is a rewarding way to make a difference in your community. The programs help low-to-moderate income earners, seniors, people with disabilities, those who speak limited English and many others who need help with free tax return preparation.

As a volunteer, you will receive free IRS training,

and you can choose to be a greeter, a reviewer, a tax preparer and more. The hours are flexible, and the time commitment is minimal.

Once training is complete and your site opens, you will help provide tax preparation service to taxpayers (generally those who make \$54,000 or less) who do not have the ability to prepare their own tax returns. Last year, volunteers prepared more than 3.8 million tax returns for taxpayers. Many of these returns resulted in refunds that help generate local economic activity.

Prospective volunteers can find more details about volunteering for the VITA and TCE programs

on the [IRS tax volunteer website](#), and then submit their contact information as instructed on the site. This information will be sent to the local IRS area office and appropriate sponsoring partners for further contact. With so many sites conveniently located in churches, community centers, libraries and senior centers across the country, there's sure to be one near you that can use your help.

It's a rewarding way to make a difference! For more details about the VITA/TCE programs go to [IRS Free Tax Prep](#) 



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A Newsletter for Employers

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Accepting late rollover contributions allowed

Retirement plan administrators, and IRA trustees, custodians and issuers (“IRA trustees”) can now accept late rollover contributions from individuals who self-certify they qualify for a waiver of the 60-day rollover requirement ([Revenue Procedure 2016-47](#)) if

- individuals provide them with the Model Letter contained in Rev. Proc. 2016-47 (or a certification that is substantially similar in all material respects), and
- they don’t have actual knowledge contradicting the certification.

Plans and IRA trustees can rely on the self-certification only for the purpose of accepting a rollover that doesn’t meet the 60-day requirement and not as to whether the contribution satisfies other requirements for a [valid rollover](#). Plans and IRA trustees may also provide the Model Letter to their clients seeking to self-certify a late rollover.

Background

There are many requirements to make a valid [rollover contribution](#), including the 60-day requirement - individuals have 60 days from the

date they receive a distribution from a retirement plan or IRA to roll it over to another plan or IRA. Otherwise, the distribution may be taxable (other than qualified Roth distributions and any amounts already taxed), including a 10% additional tax on early distributions unless an [exception](#) applies. The IRS may waive the 60-day rollover requirement in certain situations (see [FAQs: Waivers of the 60-Day Rollover Requirement](#)).

Financial institutions that serve as IRA trustees or custodians might not have accepted late rollovers unless provided with an IRS ruling waiving the 60-day rollover requirement, or the automatic waiver rule applied. They may now, however, rely on an individual’s self-certification to accept late rollover contributions, unless they have actual knowledge contrary to the certification.

Additional resources

- [New Procedure Helps People Making IRA and Retirement Plan Rollovers](#)
- [Treas. Regs. Section 1.401\(a\)\(31\)-1, Q&A 14](#)
- [Revenue Ruling 2014-9](#) 

Retirement plan correction procedures updates are available

[Revenue Procedure 2016-51](#), released September 29, 2016:

- modifies the Employee Plans Compliance Resolution System (EPCRS),
- replaces [Rev. Proc. 2013-12](#), and
- incorporates changes described in [Rev. Proc. 2015-27](#) and [Rev. Proc. 2015-28](#).

Some key changes

- Determination letter applications no longer permitted when applying the correction programs under EPCRS. The requirement for a plan sponsor to submit a determination letter application to the IRS when correcting qualification failures that include a plan amendment no longer applies.
- Fees. Fees associated with the Voluntary Correction Program (VCP) are now user fees and no longer set forth in the EPCRS revenue procedure. For VCP submissions made:
 - in 2016, refer to [Rev. Proc. 2016-8](#) and [Rev. Proc. 2013-12](#) to determine the applicable user fee.
 - after 2016, refer to the annual Employee Plans user fees revenue procedure to determine VCP user fees for that year.
- SCP. Availability of Self-Correction Program (SCP) for significant failures has been modified to provide that, for qualified individually designed plans, a determination letter need not be current to satisfy the Favorable Letter requirement.

Audit CAP changes

- Revised approach to determining Audit CAP sanctions.
- A reasonable sanction is no longer a negotiated percentage of the maximum payment amount (MPA). Instead, auditors will review facts and circumstances and the MPA amount is simply one factor to consider. In addition, there are revised, additional factors that IRS considers.

- Sanctions, generally, will not be less than the fees associated with VCP.
- New factors used in determining sanctions for late amender failures will apply.
- For late amender failures discovered by the IRS, while reviewing a determination letter application, a new approach to determining the applicable sanction will apply.

No partial refunds for certain Anonymous Submissions
The IRS will no longer refund half the paid user fee if there is disagreement over correction in Anonymous Submissions.

Miscellaneous

Several items in [Rev. Proc. 2013-12](#) revised to update citations or cross-references.

Submit comments on recovery of overpayments

The IRS continues to solicit comments from the public on expanding EPCRS correction rules to provide additional guidance on the recovery or recoupment of overpayments. (See sections 2.05(2) and 17.)

Effective date

The revenue procedure is effective January 1, 2017. Plan sponsors may not elect to apply provisions before January 1, 2017. [Rev. Proc. 2013-12](#), as modified by [Rev. Proc. 2015-27](#) and [Rev. Proc. 2015-28](#), are in effect for 2016.

EPCRS Revenue Procedures superseded

- [Rev. Proc. 2013-12](#) no longer applies as of January 1, 2017.
- Provisions of [Rev. Proc. 2015-27](#) and [Rev. Proc. 2015-28](#) are part of the new EPCRS revenue procedure. As of January 1, 2017, the older revenue procedures no longer apply. 

Watch the IRS Tax Calendar Webinar

Individuals can now view the [IRS Tax Calendar for Businesses and Self-Employed Webinar](#) posted to the [IRS Video Portal](#).



Business owners can watch the [August 24, 2016 webinar recording](#) to learn about:

- tracking Federal tax due dates on your computer or mobile device,
- customizing the online tax calendar,
- accessing the Desktop Calendar Tool or ([IRS CalendarConnector](#)),
- using the Mobile Calendar Tool or ([IRS CalendarConnector](#)),
- using the [Subscribe/Download](#) feature, and
- obtaining calendar reminders or RSS feeds.
- Access the [Tax Calendar for Businesses and Self-Employed Webinar](#). Business owners can also access the [IRS Tax Calendar YouTube video](#) in ([English](#)), ([Spanish](#)) or ([American Sign Language](#)). 

A new employer – The Certified Professional Employer Organization

This summer, the IRS began a new voluntary certification program for professional employer organizations (PEOs), as required by the Stephen Beck, Jr., Achieving Better Life Experience (ABLE) Act of 2014. To become and remain a certified professional employer organization (CPEO), an applicant must meet certain tax status, background, experience, financial reporting, bonding, and other requirements described in sections 3511 and 7705 of the Internal Revenue Code of 1986, as amended (Code), their accompanying treasury regulations, and other IRS guidance. Once certified, a CPEO is treated as the employer for employment tax purposes of any individual who is performing services for a customer of the CPEO (typically the common law employer of the individual) and is covered by a contract described in the Code between the CPEO and the customer (CPEO contract), but only with respect to remuneration paid by the CPEO to that individual. The CPEO program provides a new option for employers who use third parties for reporting and paying employment taxes.

Before January 1, 2017, the existence of a three-party arrangement (typically an employer, employee, and PEO) would not relieve the common law employer from liability for employment tax obligations, except in very limited circumstances, regardless of the terms of the contract between the PEO and the common law employer. Congress changed the landscape with the enactment of sections 3511 and 7705 and the IRS' implementation of the CPEO program. Now, if a third party is certified as a CPEO by the IRS, the CPEO is solely liable for employment taxes on remuneration it pays to a certain category of workers called "work site employees." Additionally, for workers who are not work site employees, the CPEO is the employer and liable for taxes on remuneration it pays to such workers, but the common law employer customer is still also liable. This article describes the impact of the new CPEO program from an employer's perspective.

Three-Party Arrangements in General

The Federal Insurance Contributions Act (FICA), Federal Unemployment Act (FUTA), and the federal income tax withholding provisions of the Code impose taxes on wages paid to employees in respect of employment. Generally, the requirement to withhold and pay FICA and federal income tax and the requirement to pay FUTA (collectively, employment taxes) are obligations of the common law employer. However, many employers use third parties such as PEOs for reporting and paying these employment taxes. Under a typical PEO arrangement, the PEO pays the wages of the employees of its client (which is usually the common law employer), and reports and pays the federal employment taxes on those wages using its own federal employer identification number. In return, the employer pays the PEO an amount that is typically comprised of the total amount of wages and employment taxes being paid by the PEO, plus a service fee.

As noted above, in most cases, before the enactment of the CPEO provisions under sections 3511 and 7705 of the Code, the common law employer remained liable for the employment taxes and related reporting and payment obligations when it entrusted a third party, such as a PEO, with its deposit and payment

obligations. This was true regardless of the terms of the contract between the third party and the common law employer. The common law employer could not contract away its employment tax obligations.

CPEOs and Employment Taxes

Sections 3511 and 7705 of the Code (the CPEO provisions) authorize a new type of entity – the CPEO. Organizations that are certified as CPEOs are considered employers, for federal employment tax purposes, of the employee workers performing services for their customers (usually the common law employers of the workers) under a CPEO contract. These employee workers who are covered by a CPEO contract are called "covered employees." With respect to a subset of covered employees, called "work site employees," section 3511 provides that, for federal employment tax purposes, the CPEO, and no other person, is treated as the employer with respect to remuneration the CPEO pays to the work site employees. This means that the CPEO is considered the employer of all covered employees it pays and the sole employer of all the work site employees it pays. Put another way, the CPEO is liable for the employment taxes on the remuneration it pays to covered employees, and solely liable for employment taxes on the remuneration it pays to work site employees. Consequently, an employer who, under a CPEO contract, entrusts a CPEO to pay its work site employees, and to withhold, pay, and report employment taxes on those payments, is completely absolved of any employment tax liability on such payments. This is distinct from all other three-party arrangements in which, as described above, except in very limited circumstances, the common law employer remains liable for the employment taxes paid on its behalf by the third party.

It is important to remember that with respect to covered employees who are *not* work site employees, even though the CPEO is treated as the employer for employment tax purposes, it is *not* the sole employer. For these workers, the common law employer (typically the customer of the CPEO) is also liable for the employment taxes on remuneration the CPEO pays to the common law employer's workers.

So who then is a work site employee? A "work site employee" is a covered employee who performs services for the CPEO customer at a work site (typically, the physical location at which an individual regularly performs services for a customer of a CPEO) where at least 85 percent of the individuals performing services for that customer are covered by a CPEO contract. Therefore, an employer who utilizes a CPEO and wants to be completely relieved of liability for the employment taxes paid by the CPEO on wages remitted by the CPEO to the employer's covered employees must ensure that the location where these covered employees work (their "work site") meets these requirements.

Although the CPEO provisions changed the previously existing rules regarding employment tax liability, they did not alter the rules for determining whether certain exemptions from tax might apply. The common law employer is still treated as the employer for purposes of applying exemptions or exclusions from tax, and for

applying certain definitions or other rules. For example, if the services are performed for a common law employer that is a tax-exempt organization, and those services would be excluded from employment for FUTA purposes, they are still excluded from employment for FUTA purposes even if the tax-exempt organization contracts with a CPEO that is not tax-exempt. The CPEO is treated as the employer for purposes of reporting and paying employment taxes on the remuneration it pays to the organization's covered employees, but not for purposes of determining whether an exception from FUTA applies.

There are numerous other special rules applicable to CPEOs and their customers, including special predecessor and successor rules related to wage base limitations and reporting requirements, but it is important to note that the provisions of section 3511 only apply in the context of federal employment taxes. Nothing in section 3511 or section 7705 creates any inference with respect to the determination of who is an employee or employer for other federal tax purposes, or for purposes of any other provision of law.

Conclusion

The CPEO provisions create a new three-party arrangement option that, in certain circumstances, relieves common law employers of any liability for the employment taxes reported and paid by the CPEO on remuneration the CPEO pays to the employer's common law employees. While the IRS began accepting applications for certification as a CPEO in July of 2016, no CPEOs will be certified with an effective date of certification earlier than January 1, 2017. Beginning in 2017, the IRS will publish a list of all currently certified CPEOs on [irs.gov](https://www.irs.gov). For more information on the CPEO program, including links to the proposed and temporary regulations under sections 3511 and 7705 of the Code and links to other guidance related to CPEOs, visit <https://www.irs.gov/for-tax-pros/basic-tools/certified-professional-employer-organization>. APA

Understand your tax responsibilities as an employer

As a business owner, one of the most important decisions you have to make is whether the people who perform services for your business are employees or independent contractors. Either way, the IRS wants you to make the right decision.

To make the right decision, start by checking out the [Independent Contractor \(Self-Employed\) or Employee?](#) page on IRS.gov. There you'll find information on basic rules. If you're still not sure, you can file [Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding](#) (PDF). The IRS will review the facts and circumstances and officially determine the status of your worker.

A reputable payroll service or local tax professional can also help. But keep in mind that at the end of the day you're responsible for your business' taxes. So it's important to know what your employment tax responsibilities are and how to meet them. That way you can make informed decisions and effectively monitor a payroll service if you use one.

Other resources to help you are:

- IRS Publication 15, [Employer's Tax Guide](#)
- The [Employment Taxes](#) page on IRS.gov
- [Outsourcing Payroll and Third Party Payers](#)
- [Small Business Administration \(sba.gov/starting-business\)](#) and its [SBA Learning Center](#)



- [Local chambers of commerce](#)

Enforcement of employment tax laws

Misclassifying your workers and failing to meet your payroll tax responsibilities affects you and your business. The IRS and the Justice Department will take [civil and criminal enforcement actions](#) against employers and individuals who violate employment tax laws. Criminal [enforcement](#) can include prosecution, fines, restitution and imprisonment. Civil enforcement actions can include holding you and responsible people who work for you personally liable for unpaid employment taxes. Under its [Early Interaction Initiative](#), the IRS identifies employers who may be behind on their payroll taxes and contacts them even before their payroll tax returns are due. The goal of this early interaction is to help employers stay on track and avoid civil and criminal enforcement.

Civil enforcement may also include significant financial penalties for failure to meet your employment tax responsibilities. With

penalties added to your tax bill and with interest on late payments, the bill can quickly become overwhelming.

Bottom line – be smart. And if you need help with properly classifying workers, use resources to help you make the right decision for your business. HHS

IRS alerts payroll professionals of the treatment of tips and service charges

IRS has discovered employers mischaracterized service charges, also known as auto-gratuities, as tip income. Due to the mischaracterization, IRS issued Rev. Rul. 2012-18, 2012-26 I.R.B.1032. The revenue ruling reviews when a payment should be characterized as a “tip” to help explain the difference between tips and service charges, and reviews both an employer’s tip reporting responsibilities and employee’s tip reporting responsibilities. In addition, this revenue ruling provides information on the Section 3121(q) Notice and Demand process.

What is a Service Charge?

A fixed amount added by the employer to a customer’s bill. Some examples are:

- Fixed Gratuity
- Contract Gratuity
- Large Party
- Auto Gratuity
- Service Charges
- Bottle Fees
- Some Poker Tournament Fees
- Contracted Luggage Assistance Fees

Service charges distributed to employees are non-tip wages and should be included in Box 1 (Wages, tips, other compensation), Box 3 (Social security wages) and Box 5 (Medicare wages and tips) of the employee’s Form W-2, *Wage and Tax Statement*. Service charges are NOT included in Box 7 (Social security tips) of Form W-2.

Note, employers may not claim the Internal Revenue Code Section 45B credit on service charges. An employer in the food and beverage industry may be entitled to a Section 45B credit for the employer share of the social security and Medicare taxes paid on employees’ tip income.

Directly tipped employees (such as food servers) cannot “tip out” on service charges. The employer must distribute the monies to both directly and indirectly tipped employees.

What is a Tip?

Tips are optional or extra payments that employees receive from customers. Tips include:

- Cash tips received directly from customers.
- Tips employees receive from customers through electronic settlement or payment, including credit cards, debit cards, gift cards, or any other electronic payment method.

- The value of any noncash tips, such as tickets, or other items of value employees may get from customers, and
- Tip amounts received from other employees paid out through tip pools, tip-outs or tip splitting, or other formal or informal tip sharing arrangements.

The differences between service charges and tips are discussed in Rev. Rul. 2012-18. Q&A 1 of Rev. Rul. 2012-18 reaffirms the factors from Rev. Rul. 59-252, 1959-2 C.B. 215.

To be a “tip” all of the following factors must be met.

The payment must be made free from compulsion

- The customer must have the unrestricted right to determine the amount
- The payment should not be the subject of negotiation or dictated by employer policy
- Generally, the customer has the right to determine who receives the payment.

Employee’s Responsibilities

An employee that receives tip income must do three things:

- Keep a daily tip record or tip diary
- Report tips to the employer, unless their tips are less than \$20 in a given month.
- Report all tips on their individual income tax return.

IRS has Publication 1244, *Employee’s Daily Record of Tips and Report of Tips*, which includes Form 4070A, *Employee’s Daily Record of Tips*, and Form 4070, *Employee’s Report of Tips to Employer*.

However, many employers provide other means for their employees to report tips. Employees are required to report the tip income received to their employer by the 10th day of the month following receipt.

The daily tip record or tip diary should show:

Tips received directly from customers and other employees

- Credit, debit, and gift card tips received
- Tips paid out to other employees
- Names of the employees to whom tips were paid

Employer’s Responsibilities

Retain employee tip reports

- Withhold income taxes and employee’s share of social security and Medicare taxes from wages or other funds made available by the employee for this purpose.
- Pay the employer share of social security and Medicare taxes based on the non-tip wages paid to the employee and the tips reported to the employer
- Report the income tax and social security tax, and Medicare taxes on Form 941, Employer’s QUARTERLY Federal Tax Return
- Deposit taxes in accordance with *federal tax deposit requirements*.

Section 3121(q) Notice and Demand

If the IRS identifies unreported tips, an employer will become liable for the employer share of social security and Medicare taxes on the unreported tips at the time the IRS sends a Section 3121(q) Notice and Demand for the tax due. The notice advises the employer in writing of the amount of tips employees failed to report to the employer. The IRS may learn about these unreported tips when the employee reports the tips on his or her income tax return. If the IRS determines that a particular employer is not reporting tips, the IRS may audit that employer. Once the employer receives the Section 3121 Notice and Demand the amount should be reflected on the employer’s Form 941, *Employer’s QUARTERLY Federal Tax Return*, line 5f, Section 3121(q) Notice and Demand – Tax due on unreported tips for the quarter in which the notice was received. The Section 45B credit, with respect to the tips reported on the Section 3121(q) Notice and Demand, is available to the employer in the year the notice and demand is made.

For more information see https://www.irs.gov/irb/2012-26_IRB/ar07.html or send an email to Tip.Program@IRS.Gov. 

Payroll professionals must know how to properly handle the taxation of bonuses and awards

Employers that sponsor one-participant plans should take necessary steps to prevent a qualified retirement plan from becoming an orphan plan - a plan that no longer has a plan sponsor.

When employers decide to offer awards or prizes to their employees, payroll professionals need to be ready to explain the financial impact that these awards may have for both the employer and the employee.

In most cases, the value of an award must be included in the employee's income and is subject to federal income tax withholding and social security, Medicare, and FUTA taxes. When all or part of the value of an award is taxable, the employer may choose to pay the taxes on behalf of the employee. In these situations, payroll must calculate the "grossed-up" amount to provide to the employee. Because the grossed-up amount may be significantly higher than the initial award, payroll should be prepared to explain the variance so an informed decision about whether to gross up the amount can be made.

Cash or cash equivalent is taxable

If an employer decides to give an annual or a holiday bonus to an employee, the amount given is treated as taxable wages. If the bonus is given in the form of a gift certificate or gift card, the amount is still taxable. These items do not qualify as de minimis fringe benefits because they are considered cash equivalents.

Grossing-up

When all or part of an award will be taxable income to the employee, an employer may decide to pay the taxes on the employee's behalf to ensure that the employee receives the intended amount of the award. This includes federal and state income taxes, social security taxes, and Medicare taxes. Of course, the amount to cover the taxes is also taxable income to the employee.

To help figure out the amount to add to the initial amount, the IRS has approved a procedure to calculate the total payment. The procedure, known as "grossing up," calculates the total amount of the payment by dividing the amount the employer wants to give to the employee by the difference between 100% and the applicable total tax percentage.

Say an employer wants to give an employee a \$1,000 bonus. Let's assume the federal and state income tax supplemental withholding rates are 25% and 3.5%, respectively; social security tax is 6.2%; and Medicare tax is 1.45% (for an applicable total tax percentage of 36.15%). To determine the grossed-up rate, subtract 36.15% from 100%, resulting in 63.85%. Then divide the desired net amount (\$1,000) by the grossed-up rate (63.85%) to find the grossed-up amount (\$1,566.17).

Regular rate of pay

Discretionary bonuses and special occasion bonuses (e.g., a holiday bonus) do not need to be included in an employee's regular rate of pay (used in overtime calculations under the Fair Labor Standards Act).

Withholding

Generally, the employer may choose between two federal income tax withholding methods for bonus payments. The employer may withhold using the information provided on the employee's current Form W-4 or may use an optional flat rate (currently 25%). If the employee has claimed exempt from federal tax withholding on Form W-4, then the employer should not withhold on the bonus. If the bonus and all other supplemental wage payments for the year equal more than \$1 million, the employer must use a mandatory flat rate of 39.6%. Finally, when determining the applicable total tax percentage for a gross-up, don't forget the Additional Medicare Tax of 0.9% once an employee's wages exceed \$200,000 for the year.

Prizes for retail salespeople

Special rules exist for noncash awards given to retail salespeople who are ordinarily paid on commission. If an award is given for exceeding a sales quota or outselling fellow employees, the employer may elect not to withhold federal income tax from the award but remains responsible for social security, Medicare, and FUTA taxes. The employer must also include the value of the award as income on the salesperson's Form W-2.

Length of service or safety achievement awards

In certain circumstances, the value of an award for length of service or safety achievement may be excluded from an employee's income.

Editor's Note: The American Payroll Association's strong partnership with the IRS and SSA allows it to prepare its classes and publications, such as The Payroll Source®, with the most accurate and up-to date information to educate employers. More APA information is available at www.americanpayroll.org. 

Get replacement Social Security tax forms online with ease

Preparing for tax season can seem overwhelming. Some forms and paperwork might be difficult to track down. Social Security has made this much easier with annual Benefit Statements.

An SSA-1099 is a tax form Social Security mails each year in January to people who receive Social Security benefits. It shows the total amount of benefits received from Social Security in the previous year so people know how much Social Security income to report to IRS on their tax return.

For noncitizens who live outside of the United States and received or repaid Social Security benefits last year, we will send form SSA-1042S instead. The forms SSA-1099 and SSA-1042S are not available for people who receive Supplemental Security Income (SSI).

If your clients currently live in the United States and need a replacement form SSA-1099 or SSA-1042S, we have a way for them to get an instant replacement quickly and easily. Encourage your cli-

ents to go online and request an instant replacement form with a *my* Social Security account at <http://www.socialsecurity.gov/myaccount>. The online replacement form is available beginning February 1, 2017.

Every working person in the U.S. should create a my Social Security account. The secure and personalized features of my Social Security are invaluable in securing a comfortable retirement — for today and tomorrow. **SSA**

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