

**Inside
this Issue...**

**Here is the ABC's for small
business tax calendar
options**

Page 2

**Try electronic payment
options if you owe taxes**

Page 2

**IRS Taxpayer Assistance
Centers are now taking
appointments**

Page 3

**2016 National Taxpayer
Advocate Report to
Congress addresses
important business related
topics**

Page 3

**IRS.gov includes resources
for taxpayers with limited
English proficiency**

Page 4

**Employer "hit" rate on
OCSE's Website . . . Did
you know?**

Page 4

**Improper use of deceased
individuals' Social Security
numbers**

Page 4

**Establish Simplified
Employee Pension Plan**

Page 5

**View your tax account
online**

Page 5

**Tips for employers who
use a payroll service**

Page 6

**Required amendments list
for retirement plans**

Page 6

**Reimbursement of
employees' out-of-pocket
work-related expenses**

Page 7

**Payroll professionals should
review record retention
policies**

Page 8

**IRS warns of phishing
scam targeting payroll
professionals, again**

Page 8

Reporter

Spring 2017

A Newsletter for Employers

Your employees may qualify for free tax preparation services

If you have an employee base that earns \$54,000 or less they may qualify for the free tax preparation services that's available in their community.

The Volunteer Income Tax Assistance (VITA) program offers [free tax help](#) to people who generally make \$54,000 or less, have disabilities, are elderly or have a limited English proficiency, and who need help preparing their own tax returns. IRS-certified volunteers provide free, basic income tax return preparation services with electronic filing to qualified individuals.

In addition to VITA, the Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 years of age and older, specializing in questions about pensions and retirement-related issues unique to seniors. The IRS-certified volunteers who provide tax counseling are often retired individuals associated with nonprofit organizations.

VITA and TCE sites are generally located at community and neighborhood centers, libraries, schools, shopping malls and other convenient locations across the country.

At select tax sites, people also have an option to prepare their own basic federal and state tax return for free using web-based tax preparation software with an IRS-certified volunteer to help guide them through the process. This option is only available at

locations that indicate Self-Prep on the [VITA Locator tool](#).

At a limited number of select sites, people can get help using Virtual VITA/TCE. Virtual VITA/TCE processes are used to prepare returns without taxpayer face-to-face contact. For example, certified volunteers may interview taxpayers over the phone while preparing their return.

The [VITA Locator Tool](#) will help, those who are interested, to find a VITA or TCE site or they can call 800-906-9887. The [IRS2Go](#) app is another option to help find a site.

A majority of the TCE sites are operated by the AARP Foundation's Tax Aide program. To locate the nearest AARP TCE Tax Aide site between January and April, use the [AARP Site Locator Tool](#) or call 888-227-7669.

Before going to a VITA or TCE site, see [Publication 3676-B](#) for services provided and check out the [What to Bring](#) page to be aware of all the required documents and information the volunteers will need to help prepare a return. Note: available services can vary at each site due to the availability of volunteers certified with the tax law expertise required for each specific return. New webinar and other features help small business taxpayers. **IRS**

Here are the ABCs for small business tax calendar options

A new webinar

Individuals can view the new IRS Tax Calendar webinar for Businesses and Self-Employed posted to the IRS Video Portal.

Watch the recording to learn:

- tracking Federal tax due dates on a computer or mobile device,
- customizing the online tax calendar,
- accessing the Desktop 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](#).

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

An Online calendar

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

Users can view all due dates and actions for each month or filter them by monthly depositor, semiweekly depositor, excise, or general event types.

View the [Tax Calendar online](#) - available on PC, smartphone or tablet. The online Tax Calendar is also available in [Spanish](#).

Business owners receive reminders

Receive Rich Site Summary (RSS) feed notifications one to two weeks in advance of form and payment due dates by subscribing to the [RSS feed](#). Also available in [Spanish RSS feed](#).

CalendarConnector 2 desktop tool

A new version of the IRS CalendarConnector is available. A business owner with the original version installed may wish to uninstall it and install IRS CalendarConnector 2, which has the following features:

- Users can check boxes to select as many employer event categories as they would like to display.
- When minimized, IRS CalendarConnector 2 positions itself in the Windows System Tray or in the Mac Dock so the calendar is readily accessible and does not consume screen space unless it's open.

Subscribe to or import into other calendar programs

Business owners have the option to subscribe to the tax calendar using Outlook 2007, Outlook 2010, or Mac iCal. Outlook 2003 does not have the ability to subscribe, but business owners can download tax events from the calendar.

- Subscribing adds Web calendar data to the business owner's calendar program. If they have an iPhone or iPad, they can subscribe through Mac iCal and have the information wherever they go. The Web calendar data updates automatically with any IRS changes, but they are not 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). Outlook will allow them to edit this imported calendar data, but will not automatically refresh when the IRS updates data.

View the [instructions to subscribe or import the tax calendar \(Spanish version\)](#) to learn more. [IRS](#)

Try electronic payment options if you owe taxes

If you owe taxes, you'll need to pay what you owe by April 18, 2017 to avoid interest and penalties. For a safe and easy way to pay, use an IRS electronic payment option and pay online, by phone or with your mobile device using the IRS2Go app.

Electronic Funds Withdrawal allows you to e-file and pay when you're using tax preparation software or a tax professional. With EFW, you can set up a direct debit payment from your bank account for the taxes you owe and up to four estimated payments.

Another option is **IRS Direct Pay**; it's free and lets you pay from your checking or savings account. With Direct Pay, you can change or cancel your payment using the Look Up a Payment feature up to two business days before the payment date. To access Direct Pay go to [IRS.gov/payments](#) or use the IRS2Go app.

If you prefer to pay by debit or credit card, you can pay online, by phone or with IRS2Go through authorized debit and credit card processors. Though the IRS does not charge a fee for this service, there is a fee from the card processors.

Visit [IRS.gov/payments](#) for authorized card processors and their phone numbers.

If you need to pay with cash, PayNearMe may be the answer for you. You can make a payment without the need of a bank account or credit card at more than 7,000 7-Eleven stores nationwide. To pay with cash, first visit [IRS.gov/paywith-cash](#) and follow the instructions.

You can find out how much you owe using the new online tool for individuals. It's safe, secure and available on the [Finding Out How Much You Owe](#) page on [IRS.gov](#). After logging in, you can view your federal tax account balance, access payment options or apply for an installment agreement.

If you normally pay by check or money order, try something new and convenient and pay using one of the safe and secure electronic payment options. Share this information with your employees and help them meet their tax responsibilities. [IRS](#)

IRS Taxpayer Assistance Centers are now taking appointments

IRS Taxpayer Assistance Centers (TACs) are your source for free personal tax help when you believe your tax issue cannot be handled [online or by phone](#).

Many questions can be resolved online without visiting a TAC.

Here is how it works. Instead of going directly to your local TAC with a tax issue, you can now call a special toll free number - 1-844-545-5640 - to reach an IRS representative, who is trained to either help you resolve it or can schedule an appointment for you to get the help you need. You may be able to resolve your tax issue by calling, getting guidance and eliminating the need to even travel to a TAC, which is sometimes a pretty significant trip.

Now, the IRS recognizes that some of you still need to interact with us in person. The added benefits of first talking with an IRS representative is that it is more likely you'll bring any required documents to your appointment and the IRS will have enough background on your issue to help resolve it faster and more efficiently.

Assistance is provided in over 150 languages through translation services. Taxpayers who simply want to drop off a payment or a tax return or even pick up a tax form can still do that without an appointment. Please always check IRS.gov or check the IRS2GO app for days and hours of operation as well as services offered at the IRS TAC [location you plan to visit](#).

As a reminder, IRS.gov offers numerous online options for tax help that can save time and effort. Services include:

- [Where's My Refund?](#), check refund status and estimated delivery date
- [Free File](#), free tax software offered through IRS partners to allow you to file your taxes online
- [Get Transcript](#), order a transcript online and have it mailed
- [Direct Pay](#), make tax payments or estimated tax payments directly debited

from a checking or savings account

- [Electronic Federal Tax Payment System](#), individuals or businesses can make all types of federal tax payments
- [Online Payment Agreement](#), eligible taxpayers can set up installment payments for taxes owed
- [Where's My Amended Return](#), track the status of your amended return
- [Answers to tax law questions](#), provides direct links to helpful resources to answer many tax questions
- [All IRS Forms and Publications](#), find and download current tax forms, instructions and publications

For additional information on available services, check out [Publication 5136](#), *the IRS Services Guide*.

Note to Editor: Below are links to help taxpayers find the information they need. [On Twitter? Send these Tweets:](#)

Need face-to-face help at an #IRS office? Check before you go, offices now operate by appointment only. <http://go.usa.gov/cwjDQ>

YouTube video: Making an Appointment for IRS Tax Help ([English](#), [Spanish](#), [ASL](#))

TUMBLR: [Making an Appointment for IRS Tax Help](#)

HHS

2016 National Taxpayer Advocate Report to Congress addresses important business related topics

The Annual Report to Congress, issued by the National Taxpayer Advocate every year, includes analysis of at least 20 of the most serious problems encountered by taxpayers, legislative and administrative recommendations for solving those problems, and a discussion of the year's ten most frequently litigated tax issues.

While a majority of the report usually covers issues relating to individuals, it also touches upon important business related topics.

This year's report features a most serious problem titled; [Affordable Care Act \(ACA\): The IRS Has Made Progress in Implementing the Individual and Employer Provisions of the ACA, But Challenges Remain](#). It discusses some of the problems encountered with the IRS implementation of some provisions of the ACA impacting employers that became effective in tax year 2015, such as the inability of the IRS to adequately test the accuracy of information reporting data. Employers who are required to provide healthcare coverage for their employees may be interested in reading this particular part of the report.

Another section of the report of particular interest to businesses is a legislative recommendation titled: [Simplify the Internal Revenue Code Now](#). This item discusses how the tax code imposes compliance burdens on individual taxpayers and businesses and includes several recommendations for changing that.

Other copies of past National Taxpayer Advocate Reports to Congress can be found on TAS's [Reports To Congress](#) page. For more information about the Taxpayer Advocate Service, visit our [About TAS](#) page. 

IRS.gov includes resources for taxpayers with limited English proficiency

IRS.gov site highlights [Chinese](#), [Russian](#), [Vietnamese](#) and [Korean](#) language pages with links to extra resources.

Those links can help you and your customers find more than 700 forms and publications in these languages. The links also provide information on tax preparation assistance and help in understanding tax credits.

[EL IRS en Espanol](#) is an official IRS website especially for Spanish-speaking

individuals. The site provides access to information, downloads and tools, including the EITC Assistant, online payment agreements, Where's My Refund?, Spanish Free File and the [Spanish Multimedia](#) page, which has links to podcasts, YouTube, the IRS Video Portal and text files. **IRS**

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](#)

You can also find information about online and electronic services for employers:

- [e-IWO](#) - Learn more about automating the Income Withholding for Support Order (IWO) and making the process convenient, accurate, and fast with electronic income withholding orders (e-IWO).
- [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.

- [OCSE Child Support Portal](#) - The OCSE [Child Support Portal](#) offers employers online tools to notify nearly all state child support agencies about information regarding their employees and their company:
 - [Employer Information Updates](#) - Update contact information, addresses for receiving different types of documents, and supplemental information such as third party providers, company subsidiaries, and the availability of health insurance to employees,
 - [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.
 - [eTerm](#) - With electronic termination (eTerm), you can report employee terminations online. Once registered, you can upload files or enter information on the eTerm application.

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

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

Improper use of deceased individuals' Social Security numbers

At Social Security, it's our job to investigate whether the Social Security numbers (SSN) of deceased individuals are being misused for work purposes. We often receive reports from the entertainment industry that don't match up with our death records.

From 2009 to 2014, about 72 percent of wage items reported with SSNs belonging to elderly, deceased individuals came from entertainment industry employers. These employers were talent agencies, film companies, and talent payroll providers. They reported 24,056 wage items totaling \$2.5 million, using SSNs belonging to 4,366 deceased individuals. Our records

showed the SSNs belonged to elderly people who died as early as 1951 and as late as 2009.

To help prevent misuse, employers should report wages related to residual or royalty payments for deceased individuals on an Internal Revenue Service Form 1099-MISC, *Miscellaneous Income Form*, rather than on a W-2. When you report wages correctly, we won't receive fraud alerts related to the deceased wage earner. **SSA**

Establish Simplified Employee Pension Plan

You may still have time to set up a Simplified Employee Pension Plan (SEP) for 2016. SEPs can be established as late as the due date (including extensions) of your business income tax return for the year you want to establish the plan.

The first action you'll need to take is to choose a financial institution to serve as trustee of the SEP-IRAs that will hold each employee's retirement plan assets. These accounts will receive the contributions you make to the plan.

Set-up steps for a SEP

There are three steps to establishing a SEP.

1. Execute a written agreement to provide benefits to all eligible employees.
2. Give employees certain information about the agreement.
3. Set up an IRA account for each employee.

Written agreement

The written agreement must include the name of the employer, the requirements for employee participation, the signature of a responsible official and a definite allocation formula.

The IRS has a model SEP plan document, [Form 5305-SEP, Simplified Employee Pension - Individual Retirement Accounts Contribution Agreement](#). Do not file this form with the IRS.

- You may not use Form 5305 - SEP if you:
- Maintain any other qualified plan (except another SEP - a plan is "maintained" even if no contributions were made during the year),

- Use the services of leased employees,
- Want a plan year other than the calendar year, or
- Want an allocation formula that takes into account Social Security contributions you made for your employees.

If you can't use the Form 5305-SEP, you may use a prototype document. A mutual fund, insurance company, bank or other qualified institution usually provides these. You may also have a SEP individually designed for your business.

Provide information to participants

You must furnish your eligible employees:

- Notice that you have adopted the SEP
- Requirements for receiving an allocation
- The basis on which the employer contribution will be allocated

If you use Form 5305-SEP, you must give your employees a copy of the form and its instructions. The model SEP is not considered adopted until each employee is provided with the following information:

1. A statement that IRAs other than the one the employer contributes to may provide different rates of return and contain different terms.
2. A statement that the administrator of the SEP will provide a copy of any amendments within 30 days of the effective date along with a written explanation of its effects.
3. The administrator will give written notification to the participant of any

employer contributions made to a participant's IRA by January 31 of the following year.

If you use a prototype or individually designed plan you must give all eligible employees similar information.

Set up a SEP-IRA for each employee

A SEP-IRA must be set up by or for each eligible employee. They may be set up with banks, insurance companies or other qualified financial institutions. All SEP contributions must go to traditional IRAs. Employees are responsible for making investment decisions about their SEP-IRA accounts.

You and your employees will receive a statement from the financial institutions investing your SEP contribute both at the time you make the first SEP contributions and at least once a year after that. Each institution must provide a plain-language explanation of any fees and commissions it imposes on SEP assets withdrawn before the expiration of a specified period of time.

Additional resources

- [Simplified Employee Pension Plan \(SEP\)](#)
- [SEP Plan FAQs](#)
- [Publication 4333, SEP Retirement Plans for Small Businesses](#)
- [Publication 560 \(2016\), Retirement Plans for Small Business \(SEP, SIMPLE, and Qualified Plans\)](#) 

View your tax account online

As part of the IRS commitment to improve and expand taxpayer services, a new online tool allows you to view your federal tax account balance online. This new tool is available to individual taxpayers and is rolling out in phases. The first phase, available now, allows you to view your balance, select IRS Direct Pay, debit or credit card, or apply for an installment agreement. It's safe, secure and available on the IRS.gov [payments page](#).

Launching in phases gives the IRS an opportunity to gather and evaluate feedback and to improve the customer experience. A key part of the IRS Future State initiative is for taxpayers to have a more complete online experience. Future features will allow a taxpayer to see 18 months of payment history and get tax account transcripts in a single online session.

Before accessing the new online tool, you must authenticate your identity through the Secure Access process. This is a two-step authentication process, which means that if you are a returning user, you must use your

credentials (username and password) and request a new security code (sent via text) each time you log in.

If you already have a user name and password from Secure Access for Get Transcript Online or IP PIN, you may use the same username and password. To register for the first time, you must have an email address, a text-enabled mobile phone in your name and specific financial information such as a credit card number or specific loan numbers. You may review the [Secure Access](#) process prior to starting registration.

In addition to this new tool where taxpayers can view their balance and make payments, the IRS has several [self-service tools](#) and helpful resources available on IRS.gov for individuals, businesses and tax professionals. Share this information with your employees. 

Tips for employers who use a payroll service

In a recent SSA/IRS Reporter article, the IRS provided information and resources to help business owners decide whether those providing services to their business are employees or independent contractors.

In this article, IRS focuses on businesses that have employees and use a payroll service. Payroll services help employers meet their payroll tax responsibilities. But it's important for employers to remember: You can outsource your payroll tax duties but not your payroll tax responsibilities. At the end of the day, you're responsible for meeting your payroll tax responsibilities and could be financially liable for responsibilities not met.

To protect yourself, you should know your payroll tax responsibilities even if you use a payroll service. For help visit IRS.gov and enter "payroll tax" in the search box. Also, take a look at the IRS's *Understand your tax responsibilities as an employer* article in the [winter edition of SSA/IRS Reporter](#) (PDF).

If you decide to use a payroll service, understand what it can and can't do for you. For that, visit the [Outsourcing Payroll and Third Party Payers](#) page on IRS.gov.

The IRS now has a Certified Professional Employer Organization (CPEO) program. To be part of the program, payroll services apply to IRS to become a CPEO. CPEOs offer an extra level of protection to their clients. For more information, visit the [Voluntary Certification Program for Professional Employer Organizations \(CPEOs\)](#) page on IRS.gov.

Once you've decided to use a payroll service, the next step is to monitor the service regularly to be sure it's doing everything it should. Here are some tips:

- Deposit payroll taxes regularly with the U.S. Treasury using the Electronic Federal Tax Payment System (EFTPS). You must register with EFTPS to use it. Your payroll service may complete this registration for you and use EFTPS on your behalf, but how do you know the service is making your deposits?

- Enroll in EFTPS yourself to monitor your deposits. You can even make your own deposits. If a payroll service enrolls your business in EFTPS, you will receive an EFTPS inquiry PIN. This PIN doesn't let you use EFTPS, but it does allow you to view your account. You should know when your payroll tax deposits are due and use your EFTPS inquiry PIN to verify deposits made. Learn more about the [Electronic Federal Tax Payment System](#) on IRS.gov.
- Don't let your payroll service change your address of record with the IRS. You want any correspondence or other contact from IRS coming directly to you. That way, if there's a problem you'll know about it. When the IRS receives an address change for an employer, it sends duplicate notices to both the old and new addresses. That way you'll know if the IRS changed your address. The IRS urges employers not to change their address of record to that of their payroll service provider.
- If you suspect your payroll service isn't doing everything it should or suspect fraudulent activity by your service provider, contact the IRS. You can file a complaint using [IRS Form 14157 Complaint: Tax Return Preparer](#) (PDF). Check the box on line one marked "Payroll Service Provider." You can mail the form to IRS or fax it to 855-889-7957. The mailing address and fax number are on the form. Any complaints about payroll service providers will receive expedited review and investigation.
- If you get a letter from the IRS about a problem with your payroll taxes, contact the IRS and your payroll service right away. If you're not sure about your IRS letter, check out the [Understanding Your IRS Notice or Letter](#) page on IRS.gov.

Bottom line – Be smart about your payroll taxes.

IRS

Required amendments list for retirement plans

The Required Amendments List is an annual list of changes in retirement plan qualification requirements. It also sets amendment deadlines for [individually designed plans](#).

Generally, the Required Amendments List will include an item after guidance for the item (including any model amendment) is issued. At the IRS's discretion, however, the List may also include an item in other circum-

stances, such as when a statutory change is enacted and no additional guidance is anticipated.

Plan amendment deadline

The plan amendment deadline for most items on each list will be the end of the second calendar year following the year in which the list is issued unless noted otherwise. For example, the plan amendment deadline for

most items on the [2016 Required Amendment List](#) is December 31, 2018.

Additional resources

- [Amend or Update A Plan](#)
- [Determination, Opinion and Advisory Letters](#)
- [New Determination Program Rev. Proc. 2016-37](#) IRS

Reimbursement of employees' out-of-pocket work-related expenses

The reimbursement of an employee for a work-related expense is a relatively common occurrence. Having the proper policies and systems in place can make life so much easier for the employer, the employee, and the Government. Most employers and employees will not want to have such reimbursements included in the employees' gross income or wages for federal income and employment tax purposes. However, excluding such amounts from gross income and wages requires a proper "accountable plan."

Amounts treated as paid under an accountable plan are excluded from an employee's gross income, are exempt from withholding and payment of employment taxes, and are not reported as wages on the employee's Form W-2. In contrast, reimbursements made by an employer to an employee for payment of work-related expenses that are made under a "nonaccountable plan" must be included in the employee's gross income for the taxable year, are subject to withholding and payment of employment taxes, and must be reported as wages or other compensation on the employee's Form W-2.

What is an Accountable Plan?

To be excludable from an employee's gross income and wages under an accountable plan, an employer's reimbursement of a work-related expense must meet three requirements:

- **Business connection:** The expense must be related to the employer's business and otherwise deductible by the employee as a trade or business expense. Additionally, the employer's payment to the employee must be separate from the employee's wages, or specifically identified.
- **Substantiation:** The employee must submit documentation to substantiate the amount of the expense and its business purpose within a reasonable period of time.
- **Return of excess:** If the employer gives the employee an expense allowance in advance of when the employee incurs the expense, or a reimbursed amount otherwise exceeds the amount that is properly substantiated, the employee must return any amount in excess of the substantiated expense within a reasonable period of time.

A reimbursement made by an employer to an employee for payment of work-related expenses that does not satisfy these three

requirements is generally treated as being made under a nonaccountable plan.

What Is the difference between a valid reimbursement of work-related eExpenses and wages?

In order to satisfy the business connection requirement applicable to an accountable plan, an employer reimbursement must:

Be for a deductible business expense actually paid or incurred by an employee (for example, for an expense attributable to travel on business outside of the area of the employee's tax home); and

Arise in connection with the employment for that employer.

The business connection requirement will not be satisfied if an employer pays an amount to an employee regardless of whether the employee incurs or is reasonably expected to incur deductible business expenses. Failure to meet this reimbursement requirement of business connection is referred to as "wage recharacterization" because the amount being paid is not an expense reimbursement, but rather a substitute for an amount that would otherwise be paid as wages.

Below are two examples of wage recharacterization:

Example 1. Employer pays its engineers \$200 a day. On those days that an engineer travels away from home on business for Employer, Employer designates \$50 of the \$200 as paid to reimburse the engineer's travel expenses. On all other days, the engineer receives the full \$200 as taxable wages. Because Employer would pay an engineer \$200 a day regardless of whether the engineer was travelling away from home, the \$50 Employer redesignates as travel expense reimbursement is not treated as paid under an accountable plan. Rather, all payments under the arrangement are treated as paid under a nonaccountable plan. Employer must report the entire \$200 as wages or other compensation on the employees' Forms W2, and must withhold and pay employment taxes on the entire \$200 when paid.

Example 2. Employer employs workers to build commercial buildings throughout a metropolitan area. As part of their duties, some of Employer's workers must use their personal vehicles to travel between construction sites. Employer compensates all of its workers on an hourly basis. Additionally, Employer pays all of its workers, including those that do not use their personal

vehicles for Employer's business, a flat amount per pay period that Employer treats as a nontaxable mileage reimbursement. Employer's mileage reimbursement plan does not satisfy the business connection requirement of the accountable plan rules because it operates to routinely pay an amount as a mileage reimbursement to workers who have not incurred (and are not reasonably expected to incur) mileage expenses. Therefore, Employer must report the flat amount characterized as mileage reimbursement, along with the workers' hourly pay, as wages or other compensation on the employees' Forms W-2, and must withhold and pay employment taxes on such amounts.

How must reimbursements of work-related expenses be substantiated?

There are generally two methods for substantiating employer reimbursements to an employee for work-related expenses:

- Actual expenses, in which the employees will have to substantiate expenses with receipts, adequate records, or other sufficient evidence; or
- Deemed substantiation, in which employees are deemed to have substantiated the amount of the expenses without receipts or other sufficient evidence by using a per diem amount for lodging, meals, and/or incidental expenses, or certain standard amounts available for operating an automobile (including vans, pickups, or panel trucks), for business purposes.

The amount of the expenses reimbursed under a per diem allowance method will be deemed substantiated without receipts, provided the requirements of the regulations and the applicable revenue procedure are met. See Rev. Proc. 2011-47, 2011-42 I.R.B. 520. Similarly, the IRS annually publishes certain standard amounts that may be used, provided the requirements of the regulations and the applicable revenue procedure are met, in computing and substantiating the deductible costs of operating an automobile for business purposes. See Rev. Proc. 2010-51, 2010-51 I.R.B. 883. However, the taxpayer must still document the other elements of the expense, including business purpose.

Per diem rates are discussed in Publication 1542, *Per Diem Rates*. The publication is generally updated annually. For a general discussion regarding accountable and nonaccountable plans, see Publication 463, *Travel, Entertainment, Gift, and Car Expenses*.

Payroll professionals should review record retention policies

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. 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.

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.

In addition, employers must hold on to 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.

Affordable Care Act (ACA) Forms: 1094-B, 1095-B, 1094-C, and 1095-C should be kept for at least three years from the reporting due date.

Employers also must 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.

FUTA, DOL and state requirements

The Federal Unemployment Tax Act (FUTA) requires that employers retain records for four years after the due date of the Form 940 or the date the required FUTA tax was paid, whichever is later. Record retention requirements set by the federal Department of Labor (DOL) may be found [here](#). Links to state wage and hour and unemployment agencies, which also set record retention requirements, may be found by visiting APA's site [here](#).

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

IRS warns of phishing scam targeting payroll professionals, again

In two recent news releases, the IRS has warned of a phishing scheme designed to trick payroll professionals into giving out payroll data [[IR-2017-10](#); and [IR-2017-20](#)]. This is a continuation of the 2016 phishing scheme involving fraudulent email messages that appear to be from a company executive requesting personal information on employees. By mid-January, the IRS had already received notifications that the email scam was making its way across the nation again.

The IRS urges company payroll officials to double-check any executive-level or unusual requests for lists of Forms W-2 or employee names and social security numbers (SSNs). Fraudsters are using email messages containing the actual name of the company chief executive officer (CEO) or other officials. In this scheme, the "CEO" sends an email to a payroll employee and requests a list of employees and their information including SSNs. In the latest twist, the scammer follows up with an "executive" email

to payroll and asks that a wire transfer be made to a certain account.

If an employer receives a W-2 scam email. It should forward the message to phishing@irs.gov and place "W2 Scam" in the subject line. Organizations that receive the scams or fall victim to them should file a complaint with the [Internet Crime Complaint Center \(IC3\)](#) operated by the Federal Bureau of Investigation. 



SSA/IRS Reporter is published quarterly, Spring (March), Summer (June), Fall (Sept.), and Winter (Dec.) by the IRS Small Business/Self-Employed Communications Office.

Comments may be sent to Gwen Dawson-Green, Editor, Gwen.D.Dawson-Green@irs.gov

Mail: Internal Revenue Service
Small Business/Self-Employed Communications and Stakeholder Outreach
Room 1010, Product Development Group
1100 Commerce Street MC 1019 DAL
Dallas, TX 75242-1027

e-mail: SSA.IRS.REPORTER@irs.gov